

# RESPONSE TO COMMENTS

City of New Plymouth, Idaho

NPDES Permit No.: ID-002038-9

Public Comment Period: July 18 - September 4, 2001

During the public comment period specified above, only the City submitted comments. This document summarizes the comments and the EPA responses to the comments.

1. Fecal Coliform bacteria.

Comment. The once per week monitoring requirement for fecal coliform only allows for a geometric mean for a monthly average; not for a weekly average. Because once per week monitoring frequency yields 25-30 data points for a year, and 4-6 monthly averages, this should provide adequate information for the facility. Comment applies to both May-Sept limits as well as Oct-April limits.

Response. EPA believes that the City is requesting that the average weekly limit be removed. EPA cannot remove the average weekly limit since it is required under IDAPA 58.01.02.420.05.a. That regulation also specifies that the minimum monitoring frequency is 5 samples per week. EPA, based on comments from IDEQ on permits in other watersheds, had reduced the frequency to 1 sample per week. However, EPA has revised the permit to allow for the deletion of the fecal coliform average weekly limit once the State has revised their water quality standards and EPA has approved the revisions. This is expected to occur in early 2002. This would mean that once the water quality standards revisions are adopted and approved, the permittee would no longer need to monitor for fecal coliform October 1 through April 30. In addition, monitoring frequency for fecal coliform would then revert to once per month during May 1 through September 30.

2. *E. coli* bacteria.

Comment. *E. coli* monitoring should be set at once per week, which will provide a monthly average.

Response. EPA agrees and has revised the permit to require weekly monitoring for *E. coli*.

3. TSS removal rate.

Comment. The 65% removal requirement for TSS for lagoon systems is unreasonable. IDAPA [58].01.02.420.02 [exempts] lagoons from any type of percentage removal for TSS. The permit should conform to the State exceptions. The natural biological process produces algae and duckweed along with associated organisms that prevent 65% removal condition from being met.

Response. EPA disagrees. IDAPA 58.01.02.420.02, Idaho's alternative state requirements, only address BOD<sub>5</sub> and TSS concentrations. The state is not authorized to allow for deletion of the TSS removal rate requirement. There are only two situations where the removal rate for TSS for lagoons may be less than 65 percent. The first situation is where there is less concentrated influent for separate sewer systems and the second applies to less concentrated effluent for combined sewer systems. New Plymouth is eligible for the exception under the first situation, according to 40 CFR § 133.103(d).

To be eligible for this exemption, the permittee must demonstrate satisfactorily that:

- a) the treatment works is consistently meeting its permit effluent concentration limits but its percent removal requirements cannot be met because of less concentrated influent wastewater;
- b) to meet the percent removal requirements, the treatment works would have to achieve significantly more stringent limitations than would otherwise be required by the concentration-based standards, and
- c) the less concentrated wastewater is not the result of excessive inflow/infiltration (I/I).

EPA has determined that the New Plymouth WWTP meets the requirements of 40 CFR § 133.103(d). A loading limit for TSS has been added to the permit, based on design flow and the treatment equivalent to secondary (TES) requirement of 70 mg/L average monthly limit and 105 mg/L average weekly limit.

4. Surface water monitoring.

- a. Unfunded mandate.

Comment. Surface water monitoring required by the permit is an unfunded mandate that should not be imposed on the City. It does not seem right for the City to pay for data collection simply to facilitate the TMDL process.

Response. The surface water monitoring requirement is not an unfunded mandate. The Unfunded Mandate Reform Act of 1995 is inapplicable to NPDES permit decisions. Facility-specific NPDES permits such as the one held by the City are not regulations, but instead are licenses. The Unfunded Mandate Reform Act applies only to regulations. (Order Denying Petition for Review, In re: City of Blackfoot WWTF, NPDES Appeal No. 00-32)

The information is being required in support of TMDL development. In order to make reasonable potential evaluations based on actual data, rather than statistical calculations accounting for limited data, EPA believes that at least ten data points need to be collected. For surface water monitoring, a sufficient database is needed to establish background concentrations. This information is used in developing TMDLs and establishing wasteload allocations for point and nonpoint sources. It is to the City's benefit to be able to provide the most representative background data in order for them to receive appropriate wasteload allocations.

In response to budgetary concerns, the permit has reduced the total number of samples to be collected during the surface water monitoring from 24 to 12. In addition, the requirement for surface water monitoring has been changed to require only upstream monitoring and to delete downstream monitoring.

b. River flow monitoring.

Comment. If this unfunded mandate is to be forced upon the City, who will set up QA/QC for river flow measurement? We ask that we be allowed to use the nearest USGS gauging station to supply the flow measurements that are required.

Response. EPA did not intend for the City to establish a new gauging station. The permit has been revised to clarify that river flow is to be determined from the current gauging station.

c. Mercury monitoring.

Comment. What method detection levels (MDL) values should be used for the parameters other than mercury, since Table 2 is blank except for mercury? The mercury MDL should be 0.1 ug/L, since any lower MDLs are not cost-effective or reasonable.

Response. EPA did not specify MDLs for the other parameters because no special methods are needed to analyze those parameters other than methods the City currently uses or are contained in Standard Methods. The permit specifies the MDL for mercury because the criterion is so low that an appropriate method needs to be used.

The mercury monitoring will not be deleted. This information will be needed to help determine whether or not the receiving water should be listed for mercury and whether or not the discharge from the City is contributing to any exceedance of the criteria for mercury. The most stringent criterion is the aquatic life chronic criterion of 0.012 ug/L. Because this criterion is so low, if methods are used which indicate “not detected,” it will not be clear whether or not there may be an impact on the environment. In addition, if the method detection limit used is too high, then the receiving water could be listed as impaired, since the detection limit used greatly exceeds the criterion. It is to the City’s benefit to use as low a method detection limit as possible when analyzing effluent as well. If too high a method detection limit is used for analysis, the reasonable potential evaluation may indicate that an effluent limit is needed, when it might not be needed if a lower method detection limit (i.e., closer to the criterion) had been used.

EPA believes that laboratories should be capable of producing blank levels 10 times less than the regulatory compliance level. EPA recognizes that trying to achieve a method detection limit of 0.001 ug/L may cost more than achieving a 0.01 ug/L method detection limit. In

the interest of easing the financial burden of mercury monitoring, EPA has revised the permit in several ways regarding mercury monitoring.

The permit has been revised to require a range of 0.01 to 0.005 µg/L for the method detection limit. The permittee now has a year in which to find a suitable laboratory before beginning the mercury monitoring. The number of samples required have been reduced to 10 effluent (from 12 in the draft permit) as well as 10 upstream samples. The permit has also been revised to allow reduction or deletion of the mercury monitoring upon approval from EPA. Before EPA could consider the request, the permittee must show that the first five samples taken from the monitoring location resulted in non-detects in the range of 0.01 to 0.005 µg/L. Finally, the permit has been revised to allow quarterly monitoring for the mercury monitoring.

d. Downstream monitoring.

Comment. The concept of taking downstream samples is unreasonable, since under low flow conditions, the dilution factor exceeds 340:1. Please remove the downstream monitoring requirement.

Response. EPA re-evaluated the need for downstream monitoring and agrees that it is not necessary. Therefore, downstream monitoring has been removed from the permit.

e. Surface water monitoring reporting.

Comment. We will provide the data as collected on the DMR for the month it was collected in, instead of holding it for four years as shown in the permit.

Response. The comment has been noted.

f. Comment. How will we develop a QA/QC manual for procedures on river sampling? The document that is addressed within the document, EPA QA/G-5 does not appear to have any application to river sampling.

Response. EPA disagrees. The document referenced describes the general format for setting up any QA program. The principles described can be

applied to river monitoring as well as effluent monitoring. However, another helpful reference are the following documents.

*U.S. Environmental Protection Agency, Method 1669: Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels, 1995 (EPA-821-R-95-034), and U.S. Environmental Protection Agency, Sampling Ambient and Effluent Waters for Trace Metals (EPA-821-V-97-001).*

5. Schedules.

Comment. We ask for a minimum of 180 days to allow us to integrate the improvements and to allow for the work required, due to budget and cycle limitations.

Response. We believe that the City is requesting 180 days instead of 120 days to develop the surface water quality monitoring program and the quality assurance plan (QAP). EPA believes that the request is reasonable and has revised the permit accordingly.

6. Notification of changes to the WWTP.

Comment. We ask that all plans and changes to the wastewater treatment facility be cleared and approved by IDEQ as required by IDAPA. Submittal to EPA should not be required.

Response. The regulations at 40 CFR § 122.41(l) require the permittee to notify EPA of any planned changes when the addition or alteration could significantly change the nature of or increase the amount of pollutants discharged. While EPA would not approve the plans, we would still need to be notified of any significant changes. Because EPA issues the NPDES permits and not IDEQ, EPA needs the information to determine whether or not a modification to the permit may be necessary. The permittee should supply EPA with a copy of any cover letter transmitting the plans to IDEQ.

7. Right of entry.

Comment. Right of entry should be changed to read that “at a reasonable time” as is noted in 4-G-2,-3, and -4.

Response. This condition is a regulation found at 40 CFR § 122.41(i) that must be included in all NPDES permits. Because it is a regulation, it cannot be challenged in the context of an NPDES permit action.

8. Reopener.

Comment. The reopening clause discussed in K needs to be addressed in conjunction with the TMDL process discussed in the fact sheet. If EPA plans to reopen permits to address TMDL issues, it should be stated up front in the permit. The reopening clause presented in the draft does not involve TMDL issues.

Response. The reopener clause in K is required by 40 CFR § 122.44(c) and specifically addresses sludge. The general reopener provision is found at Part IV.A., “Permit Actions.” EPA has not made any decisions at the present time regarding the reopening of the permit to incorporate any wasteload allocations established under the TMDL. The general reopener give EPA the authority to do so.

9. Definitions.

a. Comment. Item C of the definitions should be changed to read, “average monthly discharge means the highest allowable average of discharge values.” The word “limitations” there is a misnomer and should not be included.

Response. EPA disagrees. The definition for average weekly discharge limitation is taken from the regulatory definition at 40 CFR § 122.2.

b. Comment. Under definition J, the 15-minute time frame regarding a grab sample is an unusual definition for grab sample. In all the literature we have ever seen, there is no time limit on a grab sample. Grab sample is normally defined as an incident in time when a sample is removed from the stream to be sampled.

Response. EPA agrees and has revised the definition to conform to the definition included in the USEPA NPDES Permit Writers’ Manual, EPA-833-B-

96-003, December 1996, page G-6: “Grab” sample is a sample taken from a wastestream or receiving water on a one-time basis without consideration of the flow rate of the wastestream or receiving water and without consideration of time.

10. Compliance schedule.

Comment. We request a 24 month compliance schedule to complete major improvements such as chlorination, etc.

Response. The request is too general. The facility does not chlorinate so no compliance schedule would be necessary to complete an improvement to the chlorination system. No compliance schedule has been incorporated into the permit.

11. Fact sheet comments.

a. Comment. In Appendix B, Section II, no mixing zone is allowed is allowed within the computation. With a 340 to 1 dilution ratio, there should be a mixing zone allowed.

Response. The only calculation in that section is for evaluating reasonable potential for ammonia. The zero in the calculation is the upstream concentration of ammonia. Allowable dilution is accounted for, contributing to the conclusion that no permit limits for ammonia are required.

b. Comment. The fecal coliform limit should be changed by using the dilution factor.

Response. The Payette river is limited for fecal coliform bacteria which means that fecal coliform concentrations in the river exceed the criterion. In effect, there is no allowable dilution. As a result, a TMDL was established and wasteload allocations were developed. The permit has not been revised.

c. Comment. Why are both fecal coliform and *E. coli* limits included since the water quality standard is for *E. coli*?



Response. The monthly limits for fecal coliform are the wasteload allocations established by the total maximum daily loading (TMDL) for the Lower Payette that was developed by IDEQ and approved by EPA. As such, EPA is required to include those limits in the permit for the summer months. Fecal coliform limits are applicable for the rest of the year under State regulations at IDAPA 58.01.02.420.05.a.

d. Comment. The Gray Wolf does not exist to anyone's knowledge in Payette County, nor does it have any likely habitat. The Gray Wolf discussion should be deleted from the Endangered Species Act discussion.

Response. The Gray Wolf discussion was included because the US Fish and Wildlife Services list Payette County where the Gray Wolf exists. Regardless, EPA concluded that the discharge from the New Plymouth WWTP would not affect any endangered species in the area.

Additional revisions to the draft permit.

In addition to the changes noted above, the draft permit has been revised to correct typographical errors. Also, upon review of the permits in the Lower Payette watershed, EPA has revised the effluent and receiving water monitoring for nutrients and mercury to quarterly. A requirement to sample the effluent for dissolved oxygen has been added to the permit. This requirement was inadvertently left out of the draft permit.

In a letter dated November 16, 2001, the State of Idaho certified under section 401 of the Clean Water Act that the activities allowed under this permit that there is a reasonable assurance that this permit will comply with the *Idaho Water Quality Standards and Wastewater Requirements*.

