

**RESPONSE TO COMMENTS**  
**DRAFT NPDES PERMIT # ID-002793-6**  
**WestFarm Foods**  
**Jerome, Idaho**

Draft National Pollutant Discharge Elimination System (NPDES) permits for WestFarm Foods and Jerome Cheese Company were issued for public notice on November 30, 2000. The permits were public noticed at the same time because the two facilities are similar point source industries (ie. dairy product processing) located in Jerome, Idaho and discharge to the same receiving waters. The Public Notice initiated a 30-day public comment period and also included the Environmental Assessment (EA) for the WestFarm Foods facility. EPA received a request from the general public to extend the comment period to six weeks. Subsequently, EPA extended the comment period an additional 15 days until January 17, 2001. EPA received comments on the WestFarm Foods draft permit from the following parties: Larry Pennington, North Side Canal Company and Joseph L. Muller, WestFarm Foods. EPA received comments on the Jerome Cheese draft permit from the following parties: Larry Pennington, North Side Canal Company and Peggy A. Conley, Jerome Cheese Company. The following summarizes the comments on the draft permit and Environmental Assessment for WestFarm Foods and EPA's response.

A. Effluent Limitations

Total Suspended Solids (TSS): A commentor requested that the effluent limits and monitoring requirements be removed from the permit based on previous effluent monitoring data and the source of the effluent (ie. evaporator condensate and membrane filtration permeate).

Response: Federal regulations 40 CFR 122.44(d)(1)(vii)(B) require EPA to include effluent limitations for a discharge based on waste load allocations specified in an EPA-approved Total Maximum Daily Load (TMDL) for a waterbody listed under Section 303(d) of the Clean Water Act (see Section II.C. *Water Quality Limited Segment* of the Fact Sheet). Any new facility that discharges to the water quality limited segment and does not have a waste load allocation identified in the TMDL will be required to meet a waste load allocation of zero for the pollutant(s) causing the water quality impairment (ie. total phosphorus, total suspended solids and fecal coliform bacteria). The final permit will retain the proposed effluent limits of 0 mg/l and 0 lbs/day.

Total Phosphorus : A commentor questioned the effluent limits for total phosphorus and proposed limits of 1.0 parts per million (ppm) and 1.08 pounds per day (lbs/day) provided WestFarm Foods partakes in mitigation or pollutant trading activities which result in no net increase of pollutants discharged to the Snake River.

Response: As stated above, any new facility that discharges to the water quality limited segment and does not have a waste load allocation identified in the TMDL will be

required to meet a waste load allocation of zero for the pollutant(s) causing the water quality impairment (ie. total phosphorus). The final permit will retain the proposed effluent limits of 0 mg/l and 0 lbs/day.

EPA and the Idaho Department of Environmental Quality (IDEQ) are currently evaluating the viability of effluent trading. Once the viability is adequately addressed within the context of NPDES permits and if approved by the agencies, then the state of Idaho would need to develop an implementation plan for effluent trading. As stated in Section III.B. *Evaluation of Effluent Limitations and Monitoring Requirements* of the Fact Sheet, the permittee requested a compliance schedule from IDEQ which was included in the state's 401 certification.

Fecal Coliform Bacteria : A commentor requested the limits be removed or adjusted to coincide with the state water quality standards for secondary contact based on source of the effluent (ie. evaporator condensate and membrane filtration permeate). This water is reclaimed and must meet microbiological requirements set forth by the Food and Drug Administration (FDA) and Idaho State Department of Agriculture (ISDA).

Response: As stated above, any new facility that discharges to the water quality limited segment and does not have a waste load allocation identified in the TMDL will be required to meet a waste load allocation of zero for the pollutant(s) causing the water quality impairment (ie. fecal coliform bacteria). The requirements set forth by the FDA and ISDA are outside EPA's authority under the Clean Water Act and the scope of the NPDES permit. The final permit will retain the proposed effluent limits of zero organisms per 100 ml.

Disinfection of Effluent (Part I.A.9.) : A commentor requested the requirement under Part I.A.9. of the draft permit which specifies that the effluent must be disinfected prior to discharge should be removed because the reclaimed water must meet microbiological requirements under the FDA and ISDA (see previous comment).

Response: The requirement in Part I.A.9 of the permit is based on the state point source non-sewage wastewater discharge restrictions (IDAPA 58.01.02.440.02) and is only necessary if pathogenic organisms are present in concentrations that will threaten actual or designated uses. If the fecal coliform bacteria monitoring indicates that the permittee is meeting the effluent limit, then no additional disinfection is required. The final permit will retain this requirement.

Total Residual Chlorine : A commentor requested that the effluent limits and monitoring requirements be removed from the permit based on previous monitoring data and the distance to the Snake River and the corresponding dilution of the receiving waters.

Response: The total residual chlorine limit was originally included in the draft permit

because the technology-based effluent limitation was derived from standard operating practices for facilities treating wastewater. After further evaluation, EPA has determined that this technology-based standard is applicable to wastewater treatment plants utilizing chlorination practices involving contact basin technology to treat wastewater consisting of predominantly domestic sewage. Therefore, EPA does not consider this technology-based effluent limitation applicable to the discharge from the WestFarm Foods facility and will remove the total residual chlorine limit from the final permit. The final permit does retain the monitoring requirements in order to obtain more information to determine if there is a need to limit total residual chlorine in future permits.

Total Ammonia, Dissolved Oxygen, Biochemical Oxygen Demand, Nitrate-Nitrite as N, Total Phosphorus and Orthophosphate: A commentor requested that the permit reflect the standards established by the North Side Canal Company for the water within its own canal system.

Response: As stated in Section III *Effluent Limitations* of the Fact Sheet, the effluent limitations specified in a NPDES permit are based on 1) the treatment technology specified in national effluent limitations guidelines (ELGs) for this industry (ie. dairy product processing) and 2) water quality standards specified for the state of Idaho's designated uses of the receiving waters. Also, federal regulations 40 CFR 122.44(d)(1)(vii)(B) require EPA to include effluent limitations for a discharge based on waste load allocations specified for point sources in an EPA-approved TMDL for a waterbody listed under section 303(d) of the Clean Water Act. EPA does not have the authority under the Clean Water Act to base effluent limitations on standards established by the North Side Canal Company.

#### B. Effluent Monitoring Requirements.

Turbidity : A commentor requested that the monitoring requirements for turbidity be removed from the permit because the effluent from the facility is from evaporator condensate and membrane filtered water that is reclaimed and approved for use on food product contact surfaces. This approval is based upon the reclaimed water meeting standards established by FDA and ISDA for fecal coliform bacteria and turbidity.

Response: EPA has re-evaluated the need to monitor for both turbidity and total suspended solids (TSS) and has determined that the TSS limit will adequately control turbidity in the receiving waters since turbidity is related to TSS. EPA will remove the monitoring requirements for turbidity in the final permit.

Temperature : A commentor requested that the monitoring requirements for temperature be removed from the permit because they appear to contradict the "Finding of No Significant Impact" in the Environmental Assessment and were excessive given the potential dilution within Lateral 12, the farm pond, the N canal and the Snake River.

Response: As stated in Section III.B.5 of the Fact Sheet, EPA included monitoring requirements to obtain more information about the parameter to determine whether there is a need to limit temperature in future permits. The Environmental Assessment stated that the environmental impacts related to the discharge at WestFarm Foods facility resulting from the proposed action to issue a NPDES permit would not be significant because the permit will include conditions and restrictions which would mitigate potential negative effects that the discharge might otherwise have on surface water if not covered under a permit (see Section 4.0 of the Environmental Assessment). EPA will reduce the sampling frequency for temperature to five times per week in the final permit.

Dissolved Oxygen : A commentor requested that the monitoring requirements for dissolved oxygen be removed from the permit because they appear to contradict the “Finding of No Significant Impact” in the Environmental Assessment and were excessive given the potential dilution within Lateral 12, the farm pond, the N canal and the Snake River.

Response: As stated in Section III.B.6 of the Fact Sheet, EPA included monitoring requirements to obtain more information about the parameter to determine whether there is a need to limit dissolved oxygen in future permits (see also previous comment and Section 4.0 of the Environmental Assessment). EPA will reduce the sampling frequency for dissolved oxygen to once per week in the final permit.

Total Suspended Solids (TSS): A commentor requested that the effluent limits and monitoring requirements be removed from the permit based on previous effluent monitoring data and the source of the effluent (ie. evaporator condensate and membrane filtration permeate).

Response: As stated above, any new facility that discharges to the water quality limited segment and does not have a waste load allocation identified in the TMDL will be required to meet a waste load allocation of zero for the pollutant(s) causing the water quality impairment (ie. total phosphorus, total suspended solids and fecal coliform bacteria). Section 308 of the Clean Water Act and federal regulations 40 CFR 122.44(i) require that monitoring be included in NPDES permits to determine compliance with effluent limitations, therefore the final permit must contain monitoring requirements for these pollutants including total suspended solids.

Total Residual Chlorine (TRC): A commentor requested that the effluent limits and monitoring requirements be removed from the permit based on previous monitoring data and the distance to the Snake River and the corresponding dilution of the receiving waters.

Response: EPA will remove the total residual chlorine limit from the final permit (see above), however the final permit does retain the monitoring requirements in order to obtain more information to determine if there is a need to limit total residual chlorine in future permits.

Hydrogen Ion Concentration (pH) : A commentor requested that the frequency of sampling be reduced to five days per week because of limited personnel during the weekends.

Response: EPA will reduce the sampling frequency for pH to five times per week in the final permit.

### C. Receiving Water Monitoring Requirements

A commentor requested that the requirements specified in Section I.B. *Ambient Monitoring Requirements* of the draft permit be removed because Lateral 12 and the N canal do not contain cold water biota and the effect of the discharge will be insignificant given the detention time in the farm pond, the distance to the Snake River and the corresponding dilution of the receiving waters.

Response: As stated in Section IV.B. *Summary of Ambient Monitoring Requirements in Draft NPDES Permit* of the Fact Sheet, the purpose of monitoring receiving waters is to determine water quality conditions as part of the effort to reissue the permit and evaluate the reasonable potential for the discharge to cause or contribute to an exceedance of state water quality criteria.

### D. Beneficial Uses for the Receiving Waters.

A commentor questioned whether primary contact water, salmonid spawning and cold water biota were considered as beneficial uses for man-made waterways.

Response: As stated in Section II.B. *Water Quality Standards* of the Fact Sheet, the state of Idaho *Water Quality Standards and Wastewater Treatment Requirements* (IDAPA 58.01.02.003.58) define man-made waterways as canals, flumes, ditches and similar features constructed for the purpose of water conveyance. Since the designated uses for Lateral 12 and the N canal are specified in Section 110 through 160 of the Idaho water quality standards (IDAPA 58.01.02.101.02), these man-made waterways are to be protected for the use for which they were developed. Lateral 12 and N canal are used for agricultural purposes including irrigation and watering of livestock, therefore agricultural water supply is the designated use.

EPA must also evaluate the beneficial uses of the receiving waters downstream of discharge in accordance with Section 301(b) of the Clean Water Act. In this case, the segment of the Snake River into which the N canal flows (i.e. Milner-Gooding Canal to Box Canyon Creek) was considered in developing applicable effluent limitations for the WestFarm Foods facility. Idaho water quality standards (IDAPA 58.01.02.150.14) specify the following beneficial uses for the Snake River from Milner-Gooding Canal to Box Canyon Creek: cold water biota, salmonid spawning and primary contact recreation.

## E. Permit Issuance

A commentor requested that the issuance of the permit be delayed until an agreement has been reached and signed between the “effluent receiving parties” (ie. North Side Canal Company and WestFarm Foods).

Response: Any agreement between the North Side Canal Company and users of the canal water is a third party contract outside the scope of EPA’s authority under the Clean Water Act. Therefore, EPA will not withhold issuance of this permit for any such agreement.

## F. Receiving Water

A commentor clarified that the delivery ditch/drain referred to as Lateral 12 in the fact sheet and draft permit is on private property and not owned or under the control of the North Side Canal Company. Lateral 12 flows into the N canal which is owned by the North Side Canal Company.

Response: Since the comment focuses only on clarifying the ownership of Lateral 12 and the N canal, EPA concluded that this would not change the analysis of the Environmental Assessment. EPA will note and include this clarification in the facility file along with the Environmental Assessment. In addition, since the draft permit did not specify the ownership of Lateral 12 or N canal, no changes will be made to the final permit.

A commentor referenced page 3-3 of the Environmental Assessment, clarifying the actual flow of water from the Snake River to the N canal.

Response: Since the comment focuses only on clarifying the correct flow direction of the N canal, EPA concluded that this would not change the analysis of the Environmental Assessment. EPA will note and include this clarification in the facility file along with the Environmental Assessment. In addition, since the draft permit did not specify the flow of water from the Snake River to the N canal, no changes will be made to the final permit.

In addition to the comments provided above, EPA has made the following changes to the draft permit based on new information:

- 1) EPA has corrected the term “method detection limit” (MDL) to “minimum level” (ML) in Section I. *Limitations and Monitoring Requirements* of the final permit.
- 2) In the case of the effluent limitation for hydrogen ion concentration (pH), federal regulations 40 CFR 405.95 established technology-based pH limits of 6.0 to 9.0 standard units. Idaho water quality standards for aquatic life IDAPA 58.01.02.250.01.a specify pH limits of 6.5 to 9.5 standard units. EPA has determined that there is no reasonable potential for the discharge to cause or contribute to an exceedance of this water quality

standard. Therefore, EPA will revise the pH limits to 6.0 to 9.0 in the final permit to reflect the technology-based limits.

- 3) In order to be equitable and consistent, EPA will remove the method detection limits from Table 2 and applicable references in the final permit based on comments submitted for the Jerome Cheese Company draft permit.
- 4) The Idaho Division of Environmental Quality became the Idaho Department of Environmental Quality and the water quality standards for the state of Idaho are now found under agency number 58 of the Idaho Administrative Rules. Previously, the Idaho Division of Environmental Quality was part of the Idaho Department of Health and Welfare, agency number 16. Therefore, all further documentation will refer to the Idaho Department of Environmental Quality and reference the Idaho Administrative Rules as IDAPA.58.01.02.

