



FACT SHEET

NPDES Permit Number: OR-003409-6

Date: December 2, 2004

Public Notice Expiration Date: January 3, 2005

Contact: Sonia Vidanage (206) 553-1019 or

1-800-424-4372 (within Region 10 only)

vidanage.sonia@epa.gov

**The U.S. Environmental Protection Agency (EPA)
Plans To Issue A Wastewater Discharge Permit To Discharge
Pollutants And To Dispose Of Sewage Sludge (Biosolids)
Pursuant To The Provisions Of The Clean Water Act To:**

**Cow Creek Gaming Center Wastewater Treatment Plant
146 Chief Miwaleta Lane
Canyonville, Oregon 97417**

EPA Proposes NPDES Permit Reissuance

The EPA proposes to reissue the existing *National Pollutant Discharge Elimination System* (NPDES) Permit to the Cow Creek Band of Umpqua Tribe of Indians. The draft permit sets conditions for the discharge--or release--of pollutants from the Cow Creek Gaming Center Wastewater Treatment Plant to the South Umpqua River from November 1 through April 30. It also authorizes the facility to transport commercial septage to a solids handling facility and dispose of biosolids from the gravel filters in a municipal solid waste landfill. In order to ensure protection of water quality and human health, the permit places limits on the types and amounts of pollutants that can be discharged, and places conditions on the use of biosolids.

This Fact Sheet includes:

- information on public comment, public hearing, and appeal procedures
- a description of the proposed discharge, current septage practice, and future biosolids practice
- a listing of proposed revisions to effluent limitations, monitoring schedules, and other conditions
- description of the proposed discharge location
- detailed technical material supporting the conditions in the permit

401 Certification

Since the Cow Creek Gaming Center Wastewater Treatment Plant's discharge is from a facility located within the boundaries of the Cow Creek Band of Umpqua Tribe of Indians Reservation, EPA will certify the permit under section 401 of the Clean Water Act.

Public Comment

EPA will consider all substantive comments before issuing a final permit. Those wishing to comment on the draft permit may do so in writing by the expiration date of the Public Notice. Comments should be mailed to this address:

U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue, OWW-130
Seattle, Washington 98101
Attn: Sonia Vidanage

EPA will hold a public hearing on the draft permit if there is sufficient public interest. Persons interested in requesting a public hearing on the draft permit should submit written requests to EPA by the close of the Public Notice. The request for public hearing must state the nature of the issues to be raised as well as the requester's name, address and telephone number. If there is sufficient public interest in a hearing, the comment period will be extended to allow time for a hearing. Details about the time and location of the hearing would be provided in a separate notice.

After the Public Notice period closes and all comments have been considered, EPA's regional Director for the Office of Water and Watersheds will make a final decision regarding permit issuance.

If no substantive comments are received, the tentative conditions in the draft permit will become final, and the permit will become effective upon issuance. If comments are received, EPA will address the comments and issue the Permit. The permit will become effective 30 days after the issuance date, unless a request for an evidentiary hearing is submitted within 30 days.

Documents Are Available for Review

The draft NPDES permit and related documents can be reviewed or obtained by visiting or contacting EPA's Regional Office in Seattle between 8:30 a.m. and 4:00 p.m., Monday through Friday (See address below). The draft permit, Fact Sheet, and other information can also be found by visiting the Region 10 website at <http://epa.gov/r10earth/waterpermits.htm>. The EPA technical contact is Sonia Vidanage, Office of Water and Watersheds, (206) 553-1019.

U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue, OWW-130
Seattle, Washington 98101
(206) 553-0523 or
1-(800)-424-4372 (within Alaska, Idaho, Oregon and Washington)

The Fact Sheet and draft permit are also available at:

United States Environmental Protection Agency
Oregon Operations Office
811 S.W. 6th Avenue 3rd Floor
Portland, Oregon 97204
(503) 326-3250

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I. Applicant

Cow Creek Gaming Center Wastewater Treatment Plant

Facility Location:

146 Chief Miwaleta Lane
Canyonville, Oregon 97417

Mailing Address:

2371 N.E. Stephens Street, Suite 100
Roseburg, Oregon 97470

NPDES Permit No.:

OR-003409-6

Facility Contact:

Tonya Theiss-Skrip
Special Projects Officer

II. Background

The Cow Creek Band of Umpqua Tribe of Indians (hereafter referred to as “the Tribe”) owns, operates, and maintains the Cow Creek Gaming Center Wastewater Treatment Plant (WWTP) located within the Tribe’s reservation in Canyonville, Oregon in Douglas County. The Cow Creek WWTP operates under a National Pollutant Discharge Elimination System (NPDES) permit with effective and expiration dates of March 15, 1999, and March 15, 2004, respectively. The Tribe submitted an application for permit renewal on March 12, 2004. Because the application for renewal was timely, under the conditions of 40 CFR 122.6, the Cow Creek WWTP is authorized to continue discharging under the terms of the existing permit until a new permit is issued.

III. Project Activity and Location

The Cow Creek WWTP treats influent from the Seven Feather Hotel and Casino Resort. The influent wastewater is collected in a conventional gravity sewer system. The process consists of the following: initial screening, a community septic tank, additional screening, recirculation tanks, gravel filter and ultra violet disinfection. The current permit authorizes effluent to be seasonally discharged to the South Umpqua River from November 1 through April 30. The rest of the year, May 1 through October 31, the effluent is discharged to drainfields.

The commercial septage from the septic tank is transported by a commercial hauler to a solids handling facility off-reservation where it is treated and land applied. If the gravel filter material from the recirculation tank or drainfield ever becomes ineffective and needs replacing, disposal shall be to a municipal solid waste landfill (MSWLF).

Although the facility has an existing permit for seasonal discharge, since construction of the facility all effluent has been discharged to the drainfields. The Tribe submitted an application for reissuance of the permit, to continue its option for seasonal discharge.

IV. Receiving Water

The Cow Creek WWTP is allowed to discharge treated effluent to the South Umpqua River from November 1 through April 30 (high flow season). Although the Tribe does not have water quality standards for this water body, EPA must assure adjacent or downstream standards are met for the water body. Therefore, the State of Oregon's water quality standards were applied to develop permit limitations and conditions. The South Umpqua River is designated by the December 2003 *Oregon Administrative Rules (OAR 340-41-0320)* as being protected for public and private domestic water supply, industrial water supply, irrigation, livestock watering, salmon and trout rearing and migration, salmon and steelhead spawning (from October 15 – May 15), wildlife and hunting, fishing and boating, water contact recreation, aesthetic quality, and hydro power.

The South Umpqua River has been listed under Section 303(d) of the Clean Water Act as not attaining Oregon water quality standards for temperature, fecal coliform and biological criteria during the seasonal discharge (November 1 through April 30).

V. Effluent Limitations and Monitoring

The current permit was issued in February 1999. The draft permit and fact sheet with technical material supporting the conditions in the permit was submitted for Public Notice on December 10, 1998. The permit was drafted using technology-based guidelines and water-quality based procedures as described in the EPA document "Technical Support Document for Water Quality Based Toxics Control (March 1991)". Limits were developed for BOD₅, total suspended solids, pH and E. coli. The permit contains effluent monitoring to measure parameters with effluent limitations, and for other parameters such as flow, ammonia and temperature.

The basis for the permit conditions for the Cow Creek WWTP is described in detail in the fact sheet and response to comments developed for the 1999 permit. There have been no significant changes at the facility and no changes in the technology or water quality-based requirements that apply to the Cow Creek WWTP since the development of the 1999 permit. Since the issuance of the permit in 1999, the EPA has approved, as of March 2004, new water quality standards for the state of Oregon. However, there were no changes in Oregon Water Quality criteria that impact permit limits. Therefore, EPA proposes to reissue the permit with no changes to the permit limitations and a small number of revisions, which are described in section VI. Oregon did renumber and reorganize their water quality standards since development of the 1999 permit.

However, the 1998 fact sheet and the 1999 response to comments continue to form the basis for the unchanged permit conditions. These documents are available upon request by calling (206) 553-1019. The documents are also available for review at the offices listed on page 3 of this fact sheet.

VI. Proposed Permit Changes

A. Cover Page

The cover page format of the permit has been updated to reflect boiler plate standard changes to be consistent with permits issued in Region 10.

B. Schedule of Submissions

A schedule of submission page has been added at the beginning of the permit to clarify some of the items the permittee must complete and/or submit to EPA during the term of this permit.

C. Effluent Limitations

The footnote regarding E. coli in Table I-1: Outfall 001 Effluent Limitations (November 1 –April 30) was changed to be consistent with Oregon’s Water Quality Standards.

D. Address change for Monitoring Reports

The address for the submittal of monitoring reports has changed to the following:

Director, Office of Compliance & Enforcement
United States Environmental Protection Agency
Region 10
1200 Sixth Avenue, OCE-133
Seattle, Washington 98101
Attn: PCS Data Entry Team

E. Standard Language

The standard conditions in the sections III-V (Monitoring, Recording, and Reporting Requirements; Compliance Responsibilities; and General Requirements) of the permit have been updated to reflect any changes since issuance of the last permit. A few examples of sections that have updated are: Quality Assurance Requirements, Operation & Maintenance Plan, and language about monitoring, records, non-compliance reporting, inspection and entry. For a complete list, please refer to “Standard

Permit Language (Boiler Plate) Changes” in the administrative record.

F. Ambient Monitoring

Section III.A.4 of the permit has been revised to clarify that ambient water monitoring is required from November 1 through April 30 even if the facility is not discharging.

G. Penalties for Violation of Permit Conditions

The 1999 permit contained maximum penalty amounts for civil and criminal penalties. Those amounts have since been modified and are periodically adjusted per the Federal Civil Penalties Inflation Adjustment Act. The permit language of Section IV.B. has been modified and now references the appropriate Clean Water Act sections and penalty amounts.

VII. Other Legal Requirements

A. Endangered Species

Section 7 of the Endangered Species Act requires federal agencies to consult with the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) regarding potential affects, a federal action may have, on threatened or endangered species.

In response to a request for a list of threatened and endangered species in the vicinity of the discharge, the USFWS identified the following federally-listed species in a letter dated September 30, 2004 (USFWS Reference #1-7-04-SP-0575).

Threatened Species

- Bald eagle (*Haliaeetus leucocephalus*)
- Northern spotted owl (*Strix occidentalis caurina*)
- Coho salmon (Oregon Coast, *Oncorhynchus kisutch*)¹
- Kincaid’s lupine (*Lupinus sulphureus* var. *kincaidii*)

Critical Habitat

- Northern spotted owl (*Strix occidentalis caurina*)

¹ NOAA confirmed, the Coho salmon is not listed as threatened but proposed as threaten

In a letter dated October 19, 2004, NOAA identified the Oregon Coast (OC) coho salmon (*Oncorhynchus kisutch*) as being proposed to be listed as a threatened species under the Endangered Species Act as of June 14, 2004.

During the last permit issuance, a determination of not likely to adversely affect was made by the EPA with regards to OC coho salmon. NOAA concurred with the determination in a letter dated October 23, 1998. The determination was based on the following points:

- The WWTP treats only domestic waste, without chlorination.
- The discharge is small compared to the river flow, and significant mixing will aid in preventing dissolved oxygen depressions and affects on anadromous fish or eggs.
- The WWTP will remove 85% of the biochemical oxygen demanding microorganisms and total suspended solids.
- The effluent limit for E. coli is based on approved state water quality criteria and there is lack of information to suggest that bacteria or the pathogens pose any threat to OC coho salmon.

Since EPA is not proposing to change the permit limits from the current limits, the previous determination of not likely to adversely affect the OC coho salmon is still valid.

During the last permit issuance EPA determined that the permit is not likely to adversely affect the bald eagle, Northern spotted owl, and the Kincaid's lupine. This determination is based on the following points regarding the vicinity of the proposed outfall:

- There are no eagle nests and very few eagle sightings
- There is also no suitable habitat for Northern spotted owl or Kincaid's lupine

The USFWS concurred with the not likely to adversely affect determination in a letter dated February 3, 1999.

Since the action has not been modified, the previous determination of not likely to adversely affect for the bald eagle, Northern spotted owl and Kincaid's lupine is still valid.

EPA will send a copy of the draft permit and fact sheet to USFWS and NOAA at the beginning of the public comment period to inform them of EPA's determination.

B. Essential Fish Habitat

Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 USC 1855(b)) requires federal agencies to consult with NOAA when any activity proposed permitted, funded, or undertaken by a federal agency may have an adverse effect on designated Essential Fish Habitat (EFH).

In their October 19, 2004 letter NOAA identified the South Umpqua River, which is the receiving water for the Cow Creek WWTP, as providing an essential fish habitat (EFH) for coho salmon and Chinook salmon (*O. tshawytscha*).

EPA has made the determination that the action will not likely to adversely affect the EFH within the South Umpqua River. This determination is based on the statement in NOAA's October 23, 1998 letter "...habitat indicators will not be degraded due to the proposed action." This was due to the above mentioned factors in Endangered Species determination for OC coho salmon (section VII.A.).

EPA will send a copy of the draft permit and fact sheet to NOAA at the beginning of the public comment period to inform them of EPA's determination.

C. 401 Certification

Since the Cow Creek Gaming Center Wastewater Treatment Plant's discharge is from a facility located within the boundaries of the Cow Creek Band of Umpqua Tribe of Indians Reservation, EPA will certify the permit under section 401 of the Clean Water Act.

D. Interstate Waters

In accordance with 40 CFR §124.10(c)(1), public notice of the draft permit has been provided to the State of Oregon agencies having jurisdiction over fish, shellfish, and wildlife resources.

E. Permit Term

This permit shall expire five years from its effective date.