

RESPONSE TO COMMENTS

United States Environmental Protection Agency, Region 10 Responses
to Comments for the City of Unalaska, Alaska
National Pollution Discharge Elimination System (NPDES) Permit number AK004345-1

On September 5, 2002, the Environmental Protection Agency (EPA) proposed to reissue a draft National Pollutant Discharge Elimination System (NPDES) permit to the City of Unalaska, Alaska, for its discharge from the Unalaska Wastewater Treatment Plant. The City of Unalaska owns and operates the plant that treats domestic sewage from local residents, commercial establishments, and landfill leachate. The average monthly flow rate from the facility is approximately 0.8 million gallons per day (MGD). The City provides primary treatment.

The EPA received comments from the City of Unalaska prepared by Alan Ismond of Aquaterra, Bellevue, Washington, dated November 7, 2002, from Andrea Fulton, Utilities Manager; United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS), Juneau, Alaska, dated November 12, 2002, from James W. Balsiger, Administrator, Alaska Region; United States Department of the Interior, Fish and Wildlife Service, Anchorage, Alaska, dated October 10, 2002, from Ann Rappoport, Field Supervisor; and Qawalangin Tribe of Unalaska, Unalaska, Alaska, dated November 8, 2002, by means of Tribal Consultation and minutes taken by Santina Baumeister of EPA Region 10 Tribal office in Alaska.

Response to Comments

FROM: The City of Unalaska

1. Comment: Based on the discharge data for the last five years for the seafood processors and the sewage treatment plant, there does not appear to be any impairments in the receiving waters. Further lowering of the five-day biochemical oxygen demand (BOD₅) limits for the sewage treatment plant and imposing new limits for total suspended solids (TSS) will not likely have a significant impact on the receiving environment. The city is looking into potential costs and benefits for future improvements. Depending on the magnitude of the upgrade, the required increase in sewage fees could be as high as 100%. For one of the City's customers this could equate to a \$250,000 per year increase. Furthermore, capital requirements for upgrading the sewage treatment plant could be as high as \$15,000,000.

- Response: The limits for BOD₅ and TSS are from the State's 401 certification. The State requires that the City of Unalaska be consistent with other facilities conducting primary treatment in Alaska.
2. Comment: Draft permit/page 4/Table 1: Ammonia-Nitrogen is missing units of measure, which should be mg/l.
- Response: This error has been corrected in the final permit.
3. Comment: Draft Permit t/ Page 4 / Table 1: How was the 15,000 FC/100ml for daily maximum limit in the draft permit derived? How will an effluent limit of 5×10^4 (50,000), per 100ml (as stated in the Fact Sheet) result in compliance with the fecal coliform criterion at the edge of the mixing zone and how does it relate to the draft permit limits?
- Response: The State has calculated the limit for fecal coliform and has incorporated it into their 401 certification. The Fact Sheet incorrectly states "an effluent limit of 5×10^4 (50,000), per 100ml will result in compliance with the fecal coliform criterion at the edge of the mixing zone."
4. Comment: The City would like to propose weekly sampling for fecal coliform until compliance is achieved for 12 consecutive months. Sampling could then decrease to a monthly frequency.
- Response: EPA agrees with the City. The City will be required to do weekly sampling for fecal coliform until compliance is achieved for 12 consecutive months. Sampling frequency could then decrease to monthly. If after monthly monitoring is achieved and at any time there is an exceedence, then the permittee must sample every week until 24 consecutive weeks of staying in compliance then the sampling can return to monthly.
5. Comment: The dissolved oxygen effluent limits are included in the table that refers to end-of-pipe limits. However, Table 1 for dissolved oxygen (DO) limits refers to Part I.A.4 of the draft permit and states that the effluent must not be less than 6 mg/l and no greater than 17 mg/l. If these limits are derived from the Alaska water quality standards (AWQS), the limits refer to receiving environment limits and not end-of-pipe limits. Furthermore, Table 1 requires weekly monitoring of a grab sample. These monitoring requirements are suited for sampling at the end-of-pipe and not the in the

receiving environment. Given the proximity and BOD₅ discharges of the two industrial outfalls on either side of treatment plant. Any impairment in the Bay is likely to be the result of the industrial dischargers. Furthermore, monitoring outside of the summer months will present a safety hazard if personnel are required to take dissolved oxygen readings from a boat.

Response: The Alaska water quality criteria for (DO) must be met at the end of the pipe unless a mixing zone (MZ) or zone of initial dilution (ZID) is authorized by the State of Alaska. The State of Alaska has issued a ZID and a minimum effluent limit for DO of no less than 2 mg/l and no greater than 17 mg/l. The final permit requires a minimum DO concentration of 2 mg/l and a maximum DO concentration of 17 mg/l. The minimum value accounts for dilution in the mixing zone.

6. Comment: Draft Permit / Page 5 / Table I: the units of measure for all but temperature and hardness do not agree with the Fact Sheet. They should be µg/l.

Response: EPA agrees and this error has been corrected in the final permit.

7. Comment The city of Unalaska requests that a mixing zone be granted for floating solids, visible foam and sheen.

Response: Mixing zones can only be authorized by the State of Alaska, and the State has not authorized a mixing zone for floating solids, visible foam and sheen.

8. Comment: Draft Permit / Page 6 / Item 5: The City has not monitored the BOD₅ influent concentration before and feels that they cannot make the new effluent concentration limit. The City cannot assess the viability of meeting the new limits without completing the pending feasibility study. The City has attained the services of Aqua-Terra Consultants to assist in the design of the sampling program and assist in the necessary QA/QC.

Response: The Clean Water Act requires, at a minimum, all domestic sewage treatment plants to remove 30% BOD₅. This requirement is retained in the final permit. ADEC and EPA understand the City of Unalaska's concerns and are aware that it may take time for the City to be able to meet their limits while in the process of updating their facility in order to

be in compliance.

9. Comment: Fact Sheet / Page 10 / B.1: Sentence should read: “For BOD₅, the monthly average effluent concentration must not be more than 70% of the monthly average influent concentration.” The draft permit includes a similar restriction on TSS which the Fact Sheet does not.

Response: EPA agrees, the Fact Sheet should include a similar restriction on TSS and it should have stated: “For TSS the monthly average influent concentration must not be more than 70% of the monthly average influent concentration.”

10. Comment: Fact Sheet / Page 12 / C: the second paragraph states that monthly monitoring will be required. Table 3 on the next page and Draft Permit state that monitoring should be semi-annual.

Response: The Fact sheet is incorrect and should state: “As a result, the draft permit requires semi-annual monitoring outside of the mixing zone of Unalaska Bay to establish the presence or absence of background ammonia that would be used to compare to the ammonia from the discharge.”

11. Comment: Fact Sheet / Page 13 / Table 3: Why is Ammonia-Nitrogen a 24 hour composite sample? The Draft permit requires all of the other parameters as grab samples.

Response: The Fact Sheet is incorrect. Table 3 is in reference to the surface water monitoring outside of the mixing zone. The sample type is a grab.

12. Comment: Fact Sheet / Page 14 / C: The City of Unalaska sewage treatment plant currently does not generate any sewage sludge. If and when the facility is modified and sewage sludge will be generated, the City will apply in advance for a sewage sludge permit.

Response: The City of Unalaska WWTF does generate sewage sludge. According to 40 CFR 503.9(w) sewage sludge is solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage: scum or solids removed in primary; secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage

sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

Preliminary treatment is defined in Federal Register dated February 19, 1993, 40 CFR Part 257 et al. "Standards for the use of Disposal of Sewage Sludge; Final Rules" as being grit and screenings generated. Grit is the material, such as sand and gravel, that settles out before primary treatment. Screenings are relatively large pieces of solid material caught on bar screens at the headworks of the treatment of the treatment works. These wastes are small in quantity, have characteristics that are different from the characteristics of sewage sludge, and usually are handled and disposed of separately.

The City of Unalaska is using a 1 mm screen for treatment of their wastewater. The screenings from such a process cannot be considered "relatively large pieces of solid material." Therefore, the facility is doing more than preliminary treatment of the wastewater and it can be assumed that they are generating sewage sludge and do need to submit a sewage sludge NPDES permit application to EPA. Until a permit is issued, the 40 CFR 503 regulations are self implementing.

13. Comment: Fact Sheet / Page 15 / 4: 275 gpd should be 275 gallons per capita per day.
- Response: Comment noted.
14. Comment: Fact Sheet / Page 19 / Second bullet: pH limits are stated as 8.5 to 8.5. This should be 6.5 to 8.5
- Response: That is correct. The Fact Sheet should state pH limit is a range from 6.5 to 8.5 standard units.
15. Comment: Fact Sheet / Page B-2 II.A.: The last sentence only refers to a minimum 30% reduction of BOD₅ whereas the draft permit requires the reduction for BOD₅ and TSS.
- Response: The Fact Sheet is incorrect, the last sentence should state: "And the facility must remove at least 30 percent of BOD₅ and TSS from the wastewater".
16. Comment: Fact Sheet / Page B-4 / E: "It is anticipated that a mixing zone will not be

authorized for pH.” This contradicts page 17 of the Fact Sheet (bottom sentence), and Page 5 Item 5 in the Draft Permit.

Response: EPA agrees that this discussion could be made more clear. The State has given the facility a zone of initial dilution for pH but has not provided adequate justification for 100:1 dilution. A less stringent standard requires a dilution analysis, taking into account the alkalinity of the effluent and receiving water. The permit retains a pH limit for the effluent between 6.5 to 8.5 s.u.

17. Comment The City of Unalaska requests that the agencies grant an Administrative Extension to the existing permit until the sampling program and feasibility study can be completed. It is anticipated that these projects would be completed by April, 2003. The terms of reference for the study and the required deadline to complete the study could be stipulated in a Memorandum of Agreement between the City and the Agencies. Without the sampling program and the feasibility study, the City of Unalaska is unable at this time to determine the technical feasibility of meeting the new permit limits, and whether the requirements will result in the financial insolvency of the public utility. However, the City of Unalaska remains committed to progressive improvements, preferably in an environment of informed decisions. Given the non-impairment of the receiving environment under the current permits for all dischargers, extending the current permit for several months for the sewage treatment plant should not adversely impact the receiving environment.

18. Response EPA appreciates the City’s concerns about not being comfortable with limits that they do not know if they can meet. EPA is not going to extend the current permit in order for the City of Unalaska to determine the capabilities of their facility. The proposed permit will be issued containing a State developed schedule for the City to commit to in order to achieve compliance with the effluent limits in the permit.

FROM: NMFS

19. Comment: The draft permit would require signs to be posted “near the mixing zone” stating that treated wastewater is being discharged. Because the POTW is a primary treatment plant, this may give the wrong impression and may allow individuals to become complacent as they believe that something is treated is safe.

Response: This is a State requirement and the State has incorporated it into their 401 certification. This requirement is consistent with what the State requires' of municipalities for notification through out the state.

20. Comment: What type of impacts are associated with inflow and infiltration? Is this something that could affect living marine resources including essential fish habitat (EFH)? Does something need to be done to correct the problem?

Response: One impact associated with inflow and infiltration (I&I) is an increase in the flow through the facility. The increase in the flow can cause dilution of the wastewater stream but not an increase in traditional pollutants within the wastewater effluent. The facility has a flow limit and a percent removal requirement and in order to meet the flow limit during high water tables or wet weather the permittee will have to address I&I. The permittee must first do an I&I study which must be completed before their next permit can be issued in 2008. It will not be known to what extent there is a problem and if it will impact living marine resources including EFH until the study is complete.

21. Comment: The draft permit effluent limitations and monitoring requirements would allow for the use of chlorine to disinfect the effluent. While the condition also notes that limitations would apply, the concentration specifics are unclear. Chlorine at higher concentrations is toxic to living marine resources. NMFS therefore recommends that the permit specify the allowable concentrations of chlorine to be used.

Response: The NPDES permits program does not dictate how a permittee designs their wastewater treatment facility or what concentration of chlorine may be used in the treatment process. It is the permittee's responsibility to adjust their dosage to meet the effluent limit at the point of discharge. How they comply with the limit is the permittee's choice. As the Fact Sheet indicates, the primary form of disinfection is ultraviolet (UV) and not chlorine. The EPA will not require the permit to specify the allowable concentrations of chlorine.

22. Comment: NMFS recommends that EPA consider more stringent limits based on site specific water quality concerns in addition to current technology based limits. EPA states this facility serves a population of 4,300. While this may be the official resident population, the transient population at the height of the fishing and processing season far exceeds this number,

increasing the likelihood the limitations will be exceeded.

Response: The NMFS did not specify which limits should be more stringent. The site specific water quality concern for south Unalaska Bay is a five-day biochemical oxygen demand (BOD₅).

An assesment of south Unalaska Bay was done in 1995 and a Total Maximum Daily Load (TMDL) management plan for BOD₅ was developed. A TMDL is a determination of the amount of a pollutant, or property of a pollutant, from a point, nonpoint, and natural background sources, including a margin of safety, that may be discharged to a water quality-limited water BOD₅. Any loading above this capacity risks violating water quality standards.

The BOD₅ TMDL specified a waste load allocation (WLA) of 2343 lbs/day for the City of Unalaska. This is less than 0.7% of the total WLA of BOD₅ in south Unalaska Bay. The TMDL WLA was translated into the BOD₅ limit in the draft permit as 1501 lbs/day for daily maximum and 700 lbs/day monthly average. At present, the City of Unalaska has been discharging an average of 1,611 lbs/day (95th percentile of the monthly average). The NPDES permit has a flow limit that is in effect at all times, regardless of population size or season. It is the facility's responsibility to comply with this limit. The EPA believes that the permit limits are stringent enough to protect the water quality standards applicable to the bay.

23. Comment: NMFS recommends that EPA not separate the sewage sludge and wastewater permitting for this action. NMFS is concerned that by separating these permits, cumulative impacts of these two closely related issues on EFH and other living marine resources may not be properly considered.

Response: As the Fact Sheet states, the sewage sludge standards at 40 CFR Part 503 are self-implementing which means the permittee is required to comply with them, whether or not they have an NPDES permit that includes sewage sludge requirements. Since EPA, Region 10 has recently decided to separate waste water and sewage sludge permitting, sewage sludge requirements are not included in this draft permit. EPA will issue a "sludge only" permit to this facility at a later date. Issuance of the sludge only permit will be subject to consultation under Endangered Species Act

(ESA) and the Magnuson-Stevens Act.

Until the issuance of a sludge only permit, the facility's sludge activities will continue to be subject to the national sewage sludge standards and any requirements of the State.

24. Comment: How does the proposed level of treatment affect waterborne bacteriological or viral agents? How might this predispose sea lions to illness? Are sea lions attracted to this area by seafood processing wastewater outfalls, which are found on this side of Amaknak Island? We request a more complete biological assessment regarding the potential affects of the proposed discharge on Steller sea lions.

Response: Fecal coliform is used as an indicator for other micro-organisms (bacteria, viruses, or parasites) in water. The Unalaska facility discharges pathogens from human waste. A few common bacteria found in human sewage that may be of concern for Steller sea lions include *Salmonella* species, *Clostridium perfringens*, and *Klebsiella* species. *Salmonella* species may occur in water when fecal coliform levels are above 200/100 ml. The level at which these bacteria effect Steller sea lions is unknown.

The fecal coliform effluent limits included in the permit are based upon the Alaska water quality standard for protection of human health consumption of shellfish and aquatic life. There are no water quality standards for fecal coliform for protection of sea mammals such as the Steller sea lion. The permit allows Unalaska to discharge 10,000/100 ml of fecal coliform (average monthly limit). At the edge of the mixing zone (the mixing zone extends in a 150 foot radius circle around the discharge), the fecal coliform levels are diluted to a monthly average of 14/100 ml which is the Alaska water quality standard for protection of human health. The fecal coliform levels will be further diluted beyond the edge of the mixing zone.

It is highly unlikely that Steller sea lions spend enough time in the mixing zone to be impacted by the higher fecal coliform levels or that they would consume enough fish that may be exposed to bacteria while travelling through the mixing zone. There is no reason to believe that Steller sea lions will be attracted to the area of mixing zone since there are no rookeries or major food sources within the mixing zone. Steller sea lions may be attracted to the area outside the mixing zone, i.e., the area near the seafood processing wastewater outfalls. However, the levels of fecal coliform due

to the Unalaska discharge would be so low such that adverse impacts are highly unlikely. The levels of fecal coliform beyond the edge of the mixing zone will be rapidly diluted to much less than 14/100 ml.

Based on the above discussion, EPA believes that reissuing the Unalaska permit will not adversely effect the Steller sea lion. EPA does not have information to suggest otherwise, therefore a more complete biological assessment cannot be made at this time. Based on NOAAs concern, EPA will include quarterly fecal coliform monitoring of the receiving water in the permit to verify the levels of fecal coliform at the edge of the mixing zone. The Unalaska discharge has been occurring for over 20 years. If NOAA Fisheries has information showing that the existing discharge has resulted in impacts to the Steller sea lions or at what level Steller sea lions are impacted by human bacteria, EPA would appreciate reviewing that information.

FROM: U.S. Fish and Wildlife

25. Comment: Wastewater only undergoes primary treatment, and as a consequence may contain biological and chemical agents harmful to the Steller's eider (*Polysticta stelleri*), the Steller sea lion (*Eumetopias jubatus*), and the humpback whale (*Megaptera novaeangliae*) or their food source. The primary sewage treatment has historically been insufficient to meet current fecal coliform and BOD₅ requirements. Numerous biological agents might exist in the sewage, including viruses, bacteria, parasites, and other pathogens. The U.S. Fish and Wildlife (F&W) recommends that the City of Unalaska WWTF be expanded to secondary treatment and also the treatment should be designed to enhance removal of other biological agents and household, personal care, and industrial chemicals that are likely to be present in the waste stream.

Response: The City of Unalaska is required to meet the limits that are in their permit. It is up to the City to insure that they have the equipment to meet their limits.

In a September 7, 1979, Federal Register publication EPA clearly stated that, for purposes of section 301(h), entities would be considered Alaskan Native Villages if they were so designated in the Alaskan Native Villages Claims Settlement Act, Pub. L. 92-203, as amended, 43 USC 1601, et seq. (ANSCA). The City of Unalaska is one of these entities. Those

designated entities are not required to engage in secondary wastewater treatment or meet formal requirements of 301(h) waiver. EPA is to use its discretion in scheduling secondary treatment.

However, requiring the City to upgrade to secondary treatment at this time is unrealistic and will not achieve lower levels of fecal coliform being discharged. A Total Maximum Daily Load (TMDL) management plan (see comment number 22 for definition of TMDL) was done for BOD₅ and the City of Unalaska was allowed 2,400 pounds per day (lbs/day). The State 401 certification further restricts the discharge. Presently, the City is only discharging half of their TMDL allocation and the State has reduced the limit to 240 lbs/day in the final permit.

To enhance the removal of other biological agents and household, personal care, and industrial chemicals, it would require more treatment than the facility is currently doing. However, EPA does not agree that these biological agents and chemicals that are likely to be in the discharge are of a significant risk to the endanger species identified by F&W.

Steller sea lion: Studies have not determined the potential effects of pollutants on this species, and evidence does not indicate an immediate threat from toxic pollutants under current conditions.

Humpback whale: It is unlikely that the humpback whale will be present within the south Unalaska Bay and pollutants from the facility would have no significant effect on this species.

Steller's eider: The F&W has not identified south Unalaska Bay as the Steller's eider breeding ground or its area of molting and wintering. It is highly unlikely that Steller's eiders spend enough time in the vicinity of the discharge to be impacted by biological agents and chemicals or that they would consume enough food to be impacted while traveling through the Bay. As discussed in Comment 24, Unalaska's discharge has been occurring for over 20 years. If F&W has information showing that the existing discharge has resulted in impacts to the Steller's eider or at what level Steller's eiders are impacted by City of Unalaska's discharge, EPA would appreciate reviewing that information.

26. Comment: U.S. Fish and Wildlife questions the designation of the City of Unalaska as an Alaskan Native Village due to the demography and size of the

population.

Response: The City of Unalaska was designated as an Alaskan Native Village by the Alaskan Native Claims Settlement Act of 1971, Pub. L. 92-203, 43 U.S.C. 1601 et seq. (ANSCA). Because the City has been designated as an Alaskan Native Village under that Act, it retains that status for EPA Section 301(h) policy purposes. Therefore, the City of Unalaska is a Native Alaskan Village regardless of demography and size of population.

27. Comment: Leachate from the municipal landfill flows untreated into the WWTF and discharges concurrent with the sewage. This leachate is likely to contain chemicals toxic to Steller's eider. Recommendation: Landfill leachate should be physically or chemically treated to remove any chemicals in the waste stream before it is allowed to enter the WWTF. Testing should be done on the landfill leachate to determine the average concentration of contaminants present, and the filtration or chemical precipitation system should be designed to remove these contaminants.

Response: The leachate from the landfill was tested once during the previous permit. The information from that test was used to determine what to monitor from the landfill leachate and effluent discharged end-of-pipe. The draft permit requires that the leachate be sampled before it mixes with anything else (i.e. sampled prior to entering the treatment plant). Metals monitoring is also required end-of-pipe. This data will show if there is an issue of metals going into south Unalaska Bay from the leachate. EPA will use this information to determine if pre-treatment is needed for the leachate.

28. Comment: The sewage outfall is directly adjacent to the outfall for a seafood processing plant. The permit does not account for interaction between the two outfalls in terms of discharge mixing zones or implications to ecological health.

Response: The State of Alaska has the authority to authorize mixing zones for NPDES permits. The State believes that the mixing zone will ensure that the most stringent water quality standard limitations will be met at all points outside of the mixing zone.

29. Comment: The discharge may have harmed the benthic environment in the area of the outfall because of physical, chemical, and biological outputs. Fish & Wildlife recommends the damage to the benthic organisms in the area be

assessed and compared to a reference area unimpacted by municipal water prior to permit reissuance.

Response: EPA believes that previous studies in south Unalaska Bay have documented the information that the F&W has requested. One such study is titled: Benthic and Sediment Study Dutch Harbor, Alaska dated August, 2000 performed by Enviro-Tech Diving Inc. for Alyeska Seafoods Inc. and Unisea Inc. The purpose of the study was to document the physical and biological characteristics of sub-tidal marine habitat in the Unalaska Bay near and far field from the two point source origins, Alyeska Seafood point source and Unisea seafood point source, of organic seafood waste. The survey area encompassed one major area: Unalaska Bay between Hog Island and Amaknak Island and Arch Rock to Nateekin Bay. The City of Unalaska discharge falls within the survey area. A benthic study was done to estimate the abundance, diversity and distribution in the study area. EPA does not believe an additional study is needed.

30. Comment: The F&W Service requests that the following recommendations made by ADEC in its draft 401 certification be included in the final permit:
- Monitoring at the edge of the mixing zone for fecal coliform bacteria and
 - Require fecal coliform bacteria limitations of 14FC/100 ml for a monthly average, and 43 FC/100 ml for a daily maximum be met at the outside edge of the mixing zone.

Response: EPA agrees with this comment and has added the edge of the mixing zone requirements in the permit.

31. Comment: The Service requests formal Section 7 consultation under the Endangered Species Act because of the confirmed presence of the listed Steller's eider in the vicinity of the discharge.

Response: The EPA believes that the analysis provided in the Fact Sheet is sufficient to assess the impacts of the discharge to the Steller's eider. The Steller's eider may be in the vicinity of the outfall at certain times of the year but the Steller's eider breeding range is not within this area of Alaska. The Steller's eider breeds in the arctic coastal plain in northern Alaska. The eider nests in the central arctic coastal plain, primarily near Barrow. The majority of the eiders winter from the eastern Aleutian Islands to the southern portion of Cook Inlet. Causes for decline are unknown but

several potential threats have been identified: lead poisoning, caused by eiders ingesting spent lead shot as they feed; predation by ravens, large gulls, and foxes on the breeding ground; and shipping and fishing poses the risk of oil spills and disturbance of feeding flocks in marine waters. Issuance of this permit will not create any of these potential threats to the Steller's eider.

FROM: Qawalangin Tribe of Unalaska

32. Comment: The tribe requests that the Agency research the issue and re-visit the authority for a 301(h) waiver. They want to know what the history and planning background of the issuance of Alaskan Native Village.

Response: The Alaskan Native Village claims Settlement Act of 1971, Pub. L. 92-203, 43 U.S.C. 1601 et seq. (ANSCA) designated which communities in Alaska are Alaskan Native Villages. An entity does permanently retain its status as a "native village of Alaska" once it has been so identified for purposes of section 301(h) of the Clean Water Act, 33 U.S.C. 1311 (h). EPA does not determine the meaning of Alaskan Native Village for ANSCA. And, if a site is so designated as an Alaskan Native Village they are automatically exempt from section 301(h) requirements. In the September 7, 1979, Federal Register publication EPA clearly stated that, for purposes of section 301(h), entities would be considered Alaskan Native Villages if they were so designated in the Alaskan Native Village Claims Settlement Act, Pub. L. 92-203, as amended, 43 USC 1601, et seq. (ANSCA). Those entities are not required to engage in secondary wastewater treatment unless EPA specifically requires them to do so. Requiring secondary treatment would be a national decision and not a regional decision. EPA ties its policy of waiving Section 301(h) requirements to the ANSCA definition of Native Villages. EPA does not determine which entities are identified as Alaskan Native Villages under ANSCA. Therefore, once the site is identified as an Alaskan Native Village for purposes of this EPA policy (September 7, 1979 Federal Register) they remain an Alaskan Native Village. At the time that the site was originally issued an NPDES permit, it was composed of approximately 500 people, mostly Native Alaskans. The site now has approximately 4,500 inhabitants and only 7% of them are native Alaskans.

33. Comment: The Tribe would like to have the City monitor monthly to see if their treatment is working. At the very least, quarterly testing should be

required on all parameters (especially on fecal coliform). Also, the Tribe would like to know how much of the metals from the landfill are entering the bay.

Response: EPA agrees that more frequent testing should be required of these parameters that have limits. Also, the permit does have monitoring required at the landfill before the leachate mixes with the wastewater and monitoring at the outfall to determine the amount of metals that are being discharged into the bay. This monitoring is being done to help determine if pre-treatment would be required of the landfill to help eliminate the discharge of metals if they are being discharged into the bay at high levels.

34. Comment: The tribe would like to know how 10,000FC/100ml was determined as the fecal coliform limit for the City of Unalaska.

Response: The State of Alaska determined that 10,000FC/100ml would be the average monthly limit for fecal coliform based on the size of the mixing zone and the rate of dilution that they determined for south Unalaska Bay.

35. Comment: The Tribe would like copies of the Discharge Monitoring Reports (DMRs) sent to them on the same schedule as they go to EPA. The Tribe would also like training and assistance in interpreting the DMRs.

Response: EPA will require the City of Unalaska to send copies of their DMRs to the Tribe at the same time that they are required to send a copy to EPA. In regard to assistance for interpreting the DMRs, EPA assigns a compliance officer to each of the permits that are written. The compliance officers are able to answer questions about the DMRs and assist in the interpretation of them.

36. Comment: The Tribe would request EPA enforcement become more visible on where sewage sludge is captured and where it is put.

Response: The City of Unalaska is responsible for the regulations that affect sewage sludge and are required to submit an application for an NPDES permit for sewage sludge. Both EPA and ADEC have limited staff to conduct inspections. However, the Clean Water Act (CWA) presumes that permittees have knowledge of their biosolids operations and wastewater treatment and discharges and are responsible for honestly and accurately monitoring and reporting their wastewater discharges and sewage sludge

disposal.

Importantly, the CWA allows any citizen or group of citizens the right to commence a civil action against any person (including the United States or any other governmental agency) who is alleged to be in violation of a permit limitation, a water quality standard or an order issued by EPA or a state with respect to such a standard or limitation. The right of citizen suit empowers citizens to secure enforcement of compliance violations on permittees. Any legal action against a permittee should be substantiated by appropriate evidence of such a violation(s), such as photographs and signed eye-witness statements [See CWA § 505 et al.]

EPA has not revised the permit to address this comment.

37. Comment: What will become of the sludge from the wastewater treatment plant when the landfill reaches capacity and another is not developed in the area?

Response: The City of Unalaska will have to investigate their options as to how to dispose of their sludge from their wastewater treatment plant if the landfill is closed. There are several options for disposal which include, incineration, barging it from the Island, and land application, to name a few.

38. Comment: The Tribe wants to be sure that we include all relevant Agencies in our determinations of what is happening in south Unalaska Bay. Fish and Wildlife Service has trust responsibilities for partnership.

Response: All relevant agencies were notified of the development of this permit and were sent copies of the draft permit and Fact Sheet, and were requested to send any comments regarding the draft permit to EPA before the end of the public notice comment period. EPA has responded to all comments received regarding the City of Unalaska draft NPDES permit.

39. Comment: The Tribe requests a heads-up on all NPDES permits that are coming out soon. They want to be notified each year what NPDES permits EPA plans to do and to send them a list so the Tribe can prepare themselves and see if they want to pay attention so that they can make comments or initiate consultation.

Response: EPA will provide early notification of permits that are planned to be done

to the affected tribes in the Region.

40. Comment: The Tribe is requesting a public meeting with the Tribal membership to discuss and understand the issues of what is being dumped into the bay. The tribe wants to know if EPA would consider such a meeting in Unalaska.

Response: This is outside of the purview of the NPDES permit office and this comment has been forwarded to the EPA Region 10 Tribal Office.

41. Comment: The Tribe would like training to understand what is contained in discharge monitoring reports and in reading and understanding the NPDES permit process. They would like to be part of any workshops offered by EPA.

Response: This is outside of the purview of the NPDES permit office and this comment has been forwarded to the EPA Region 10 Tribal Office.

42. Comment: The Tribe is requesting a workshop/conference with all responsible parties for Unalaska Bay: US Army Corp of Engineers, US Fish and Wildlife Service, National Marine Fisheries Service, US Coast Guard, Alaska Steller Sea Lion and Sea Otter Commission, Alaska Native Marine Mammal Commission, and others.

Response: This is outside of the purview of the NPDES permit office and this comment has been forwarded to the EPA Region 10 Tribal Office.