

RESPONSE TO COMMENTS
DRAFT NPDES PERMIT # ID-002760-0
Jerome Cheese Company
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 Jerome Cheese Company draft permit from the following parties: Larry Pennington, North Side Canal Company and Peggy A. Conley, Jerome Cheese Company. 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. The following summarizes the comments on the draft permit for Jerome Cheese Company and EPA's response.

A. 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: EPA will note and include this clarification in the facility file along with the final permit. Since the draft permit did not specify the ownership of Lateral 12 or N canal, no changes will be made to the final permit.

B. Effluent Limitations

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.

Fecal Coliform Bacteria: A commentor questioned whether the effluent stream from the Jerome Cheese facility should be monitored for *Escherichia coli* (E. coli) rather than fecal coliform based on a recent revision of the Idaho water quality standards (IDAPA 58.01.02.251.01.1).

Response. EPA agrees that the recent revision is relevant, however as stated above federal regulations 40 CFR 122.44(d)(1)(vii)(B) require EPA to include effluent limitations for a discharge based on waste load allocations (WLAs) specified for point sources in an approved TMDL. In this case, the TMDL for the Upper Snake Rock Subbasin (1999) specified a waste load allocation of zero for fecal coliform bacteria. This limit is protective of Idaho water quality standard IDAPA 58.01.02.251.01.1 because E. coli is a subset of fecal coliform bacteria. Therefore, EPA believes it is unnecessary to limit both E. coli and fecal coliform bacteria and the final permit will retain the fecal coliform bacteria requirements.

C. Ambient Monitoring Requirements.

Method Detection Limits. The commentor stated concerns about obtaining the method detection limits for dissolved oxygen and turbidity specified in Table 2 *Ambient (Lateral 12 and N canal) Monitoring Requirements* of the permit.

Response: The method detection limit procedure is specified in federal regulations 40 CFR 136, Appendix B. Since the permit already requires the use of methods in Part 136 (see Section III.C. *Monitoring Procedures* of the permit), EPA has determined that it is not necessary to specify the method detection limits in Table 2 and will remove the limits from Table 2 and applicable references in the final permit.

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.

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) 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.

- 4) In order to be equitable and consistent, EPA will revise the final permit as specified below based on comments submitted for the WestFarm Foods draft permit.
- ♦ the effluent sampling frequency for pH is changed to five times per week
 - ♦ the effluent sampling frequency for temperature is changed to five times per week.
 - ♦ the effluent sampling frequency for dissolved oxygen is changed to once per week.
 - ♦ the ambient monitoring requirements for turbidity have been removed.