

US EPA ARCHIVE DOCUMENT

In Reply  
Refer to: WTR-5  
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Return Receipt Requested

Harry L. Begaye  
Navajo Tribal Utility Authority  
P.O. Box 170  
Ft. Defiance, AZ 86504

**Subject: Transmittal of NPDES Permit for NTUA Window Rock WWTP (No. NN0021555)**

Dear Mr. Begaye:

Enclosed please find the final National Pollutant Discharge Elimination System (NPDES) permit issued for the above captioned Navajo Tribal Utility Authority facility. The NPDES permit is hereby issued upon the date of signature and shall become effective on June 1, 2011 to incorporate at least thirty-three (33) days from the date of this cover letter, unless a petition is filed with the Environmental Appeals Board (EAB) to review any conditions of the final permit under 40 CFR 124.19(a), as revised at 65 Fed. Reg. 30886, 30911 (May 15, 2000.) A copy of such petition should be sent to the EPA address listed above.

The staff at the U.S. Environmental Protection Agency ("EPA") has reviewed the permit application and relevant information and prepared a draft permit for the above captioned facility in accordance with the Clean Water Act ("CWA.") The EPA has also published a public notice of its tentative decision to issue the permit. The draft permit was public noticed on February 3, 2011, in the Navajo Times. We have received your comments dated March 2, 2011. After considering the expressed views of all interested persons and agencies, and pertinent Federal statutes and regulations, the EPA, pursuant to 40 CFR 124, prepared the final permit.

As stated in newly-revised 40 CFR 124.19(a), within 33 days after EPA issues the final permit(s), any person who filed comments on the draft permit(s) or participated in the public hearing may petition the EAB to review any condition of the permit decision. Any person who failed to file comments or failed to participate in a public hearing on the draft permit(s) may petition for administrative review only with regard to changes made from the draft permit(s) to the final permit(s). The petition shall include a statement of

the reasons supporting the review, including a demonstration that any issue being raised was raised during the public comment period (including any public hearing) to the extent required by these regulations and, when appropriate, a showing that the condition in question is based on: (1) a finding of fact or conclusion of law which is clearly erroneous; or (2) an exercise of discretion or an important policy consideration which the EAB should, in its discretion, review. Under 40 CFR 124.16 and 124.60, a petition for review under 40 CFR 124.19 stays the force and effect of the contested conditions of the final permit until final agency action under 40 CFR 124.19(f).

The EPA will routinely deny any request for an evidentiary hearing which is postmarked later than the 33<sup>rd</sup> day from the date of this cover letter. If you have any questions regarding the procedures outlined above, please contact Linh Tran at (415) 972-3511.

Sincerely,

David W. Smith, Manager  
NPDES Permits Office  
Water Division  
U.S. EPA, Region 9

Enclosure

cc: Raquel Whitehorse, Supervisor, NTUA  
Patrick Antonio, Navajo Nation EPA

**EPA RESPONSE TO COMMENTS**  
**From Mr. Harry Begaye of NTUA dated March 2, 2011**

**Comment on the permit fact sheet:**

NTUA clarified that there is a barscreen at the entrance works, a chlorine contact chamber and a meter/totalizer unit at the influent and effluent stations.

Response: Clarification noted.

**Comments on the Draft Permit:**

1. The definition for composite sampling in the proposed permit has been revised from the definition of an 8-hour composite sampling to that of a 24-hour composite sampling. NTUA Window Rock District does not have an auto-sampler and is concerned with the operating cost. NTUA requests to have all composite sampling remain at 8-hour composite instead of 24-hour sampling.

Response: The NTUA Window Rock wastewater treatment plant is classified as a major NPDES facility with a continuous discharge. EPA finds that the previous permit requiring an 8-hour composite sampling is inadequate and did not reasonably provide for continuous flow monitoring of the facility. As a major facility, NTUA needs to have an automatic 24-hour composite sampler to collect time-proportional representative of flow during any 24-hour period of discharge. Therefore, the draft permit will remain unchanged in the final permit issuance.

2. The proposed permit set a requirement for chronic whole effluent toxicity (WET) testing of test species to be conducted monthly. NTUA requests that the WET testing requirement be eliminated due to lack of flow in Black Creek downstream and therefore, no fish exist in the wash. NTUA feels that the plant effluent will percolate into the ground long before it would reach any aquatic life and the only source of flow would be from the Window Rock treatment plant. NTUA believes there is no chance of the plant effluent going more than 1.0 mile downstream.

Response: Based on information from the staff at the Navajo Nation EPA, flow at the discharge and in the receiving waters downstream have been observed at the Window Rock facility as they have been at NTUA's other major Tuba City facility. They share similarities in how often they are dry, or whether they have surface flow. Due to the similar characteristics of the receiving waters at Tuba City and Window Rock, the WET monitoring shall also be consistent. Therefore, EPA does not believe that an exemption of the WET testing monitoring requirement at Window Rock is warranted. It is EPA Region 9's policy that all continuous dischargers be required to perform toxicity

testing to demonstrate that there are no unexpected toxic impacts of the discharge in the receiving water.

In addition, EPA's policy is to set a monthly testing frequency for facilities considered to be major NPDES facilities. In the absence of historical WET data collected at this NTUA Tuba City facility and since NTUA cannot ascertain that there are no toxic impacts from its discharge, the requirement for monthly testing remains. NTUA may request a reduction of the testing frequency after the first 12 monthly testing data have been collected to establish no toxic impacts of the discharge in the receiving water. Therefore, the draft permit will remain unchanged in the final permit issuance.