

## **Response to Comments**

on Draft National Pollutant Discharge Elimination System (NPDES) Permits for

**Lummi Indian Business Council  
Gooseberry Point Wastewater Treatment Plant  
Permit No. WA-002566-6**

and

**Lummi Indian Business Council  
Sandy Point Wastewater Treatment Plant  
Permit No. WA-002565-8**

### **Background**

On December 23, 2003, EPA proposed to reissue the National Pollutant Discharge Elimination System (NPDES) Permits for the Lummi Wastewater Treatment Plants (WWTPs) at Gooseberry Point and at Sandy Point. The Public Notice of the draft permits initiated a 30-day public comment period which expired on January 22, 2004. The EPA received comments on the draft permits from Frank Meriwether of the Washington State Department of Health and from Mark Henderson of the Washington State Department of Ecology. No other comments were received.

This document summarizes the comments received on the draft permits, and EPA's responses to the comments. The document provides a record of the basis for changes to the draft permits to produce the final permits. The Fact Sheets that accompanied the draft permits were not revised because they are already final documents that provide a basis for the draft permits.

### **Comments and Responses**

#### **Comment 1**

The Department of Health requested the addition of language to both permits which requires the immediate reporting to the Department of Health Shellfish Program of any unauthorized discharges, such as collection system overflows, plant bypasses, or failure of the disinfection system. The commenter pointed out that such a notification clause is in all NPDES permits issued by the Washington Department of Ecology for WWTPs near shellfish areas.

Jeremy Freimund of the Lummi Department of Natural Resources requested that this requirement be modified to apply to those discharges likely to affect shellfish growing areas.

#### **Response 1**

The EPA agrees that such a notification clause is appropriate in the proximity of shellfish growing areas.

**Final Permit Modification:** In the reporting section of each permit at §II.H, the following text has been added:

**“Reporting of Unauthorized Discharges.** The permittee must report immediately all unauthorized discharges that are likely to affect shellfish growing areas, such as collection system overflows, plant bypasses, or failure of the disinfection system, to the Washington State Department of Health, Shellfish Protection Program. The 24-hour number for the Department of Health is (360) 236-3330.”

#### Comment 2

The Washington Department of Ecology requested that facility outfall inspections be conducted within the five year term of the permits in order to verify their integrity and ensure that their mixing zones are accurately portrayed. The inspections need to accomplish the following:

- Inspect the submerged portion of the outfall line and diffuser.
- Document the exact location of the outfall and diffuser using GPS.
- If conditions allow for photographic documentation, it shall be included in the report.
- A report on the inspections shall be submitted within 90 days of the inspection to EPA.

Ecology also requests a copy of the reports when available.

#### Response 2

EPA agrees that an inspection of the outfalls is desirable in assuring that assumptions made in establishing permit conditions are accurate. This is considered to be a part of proper operation and maintenance as required in 40 CFR §122.41(e).

An inspection was conducted by EPA in 2001. The Gooseberry Point outfall was located and documented on videotape. The Sandy Point outfall was not located at that time. Therefore, a requirement to locate and document the integrity of the outfalls is reasonable.

Final Permit Modification: The following section is inserted in the permit at §I.H:

**“Outfall Inspection Requirement.** Within the five year term of this permit, the permittee must conduct an inspection of the facility outfall in Hale Passage (or Strait of Georgia) as follows:

- Inspect the submerged portion of the outfall line and diffuser.
- Document the exact location of the outfall and diffuser using global positioning system (GPS).
- Document the condition of the outfall photographically or

videographically, if possible.

- Submit a report of the inspection within 90 days of the inspection to EPA at the address in §II.B, below.
- Transmit a courtesy copy of the inspection report to Ecology at the address in §II.B, below.”

Response prepared by Sharon Wilson, EPA Region 10, January 2004.