

## **APPENDIX D - RESPONSE TO COMMENTS**

Ecology published the public notice for issuance of Pacific Functional Fluids' proposed NPDES permit on December 28, 2010 with a closing date of January 21, 2011.

Ecology received comments from Pacific Functional Fluids (PFF) on January 20, 2011 and comments from Citizens for a Healthy Bay (CHB) on January 21, 2011. Ecology completed its review of the comments and provided the response below. Ecology will send a copy of this document in its entirety to commenters of the draft documents.

### **Comment #1 from Dennis Miller, Environmental Specialist, Pacific Functional Fluids**

PFF requests clarification of various "due dates" in the permit. Example: Section S9 in the permit requires an updated Spill Plan to be submitted by December 1, 2010. Obviously that date has passed. Will the various dates be updated once the permit is issued?

### **Response to Comment #1**

The Spill Plan due date is April 1, 2011 as specified in the proposed permit at Ecology's website, [www.ecy.wa.gov/programs/swfa/industrial/IND\\_PERMITS/DraftPermits/PFF\\_NPDES10.pdf](http://www.ecy.wa.gov/programs/swfa/industrial/IND_PERMITS/DraftPermits/PFF_NPDES10.pdf). The December 1, 2010 submittal date was in rough draft form and has since been revised. The website also has the proposed schedule for other submittals. The schedule is based on the permit issuance date of February 1, 2011. This schedule may be shifted according to changes in the permit issuance date. Ecology noted PFF's comments and will keep the submittal schedule up-to-date.

### **Comment #2 from Dennis Miller, Environmental Specialist, Pacific Functional Fluids**

Will the permit be valid for five years from the issue date, after the public comment period or will the issuance date be retroactive to when the previous permit expired?

### **Response to Comment #2**

The permit will be valid for five years from the issuance date. Ecology will issue the permit after we receive and respond to all comments. The five-year permit cycle is in accordance with 40 CFR 122.46(a) and RCW 90.48.180. Please note that the permit may be re-opened and modified before the expiration date. Condition G3 of the proposed permit lists the causes for modification.

### **Comment #3 from Carrie Hernandez, Project Manager, Citizens for a Healthy Bay**

The Clean Water Act created "the national goal to eliminate the discharge of pollutants into navigable waters by 1985." The NPDES permit system was designed to accomplish this goal and set strict limits on the mass and concentration of discharged pollutants with the expectation *that effluent limitations will become stricter with each permit cycle*. After reviewing the draft permit it appears that the effluent limitations have changed for almost all parameters. We encourage the continual progression of NPDES permits towards eliminating reliance upon waterways as a waste disposal and would like to see stricter limitations placed on [zinc].

CHB encourages the continual progression of NPDES permits towards eliminating reliance upon waterways as a waste disposal and would like to see stricter limitations placed on zinc. CHB disagrees with Ecology's determination to leave the zinc limit of 300 µg/L. Three years have passed since this system was added as a treatment method to remove zinc from wastewater. According to the table in Appendix C of the Fact Sheet, Outfall 001 zinc data shows that the average zinc levels tested appear to be well below 300 µg/L for Feb-08 through Jul-09 time period (see Appendix A of this comment letter for a copy of the discharge table.) CHB feels there was sufficient time to collect the necessary data to determine an appropriate discharge limit for zinc. Allowances should not be made because Ecology or PFF did not collect data during this time.

### **Response to Comment #3**

Ecology proposed the zinc limit of 330 µg/L, which is a performance-based limit. The limit of 300 µg/L is a typo and will be corrected.

CHB noted the fact sheet states that "*Ecology used monitoring data submitted after March 2007 to evaluate technology-based limits.*" It is Ecology's intention that this statement applies to oil & grease, pH, lead, and copper limits but not zinc. Ecology reviewed zinc data separately. The decision to include zinc data prior to March 2007 is based on a best professional judgment, case-by-case evaluation of the facility's history as described in the paragraph below.

Prior to March 2007, Ecology observed elevated zinc levels, or "spikes," in untreated storm water before it enters PFF's treatment system. The spikes typically occurred around February and March and were as high as 689 µg/L in one sample taken by Ecology in March 2006. This level was two times greater than the average concentration of 380 µg/L and seven times greater than the minimum concentration of 98 µg/L. The spikes also contributed to higher zinc levels in the effluent that violated the 330 µg/L limit. Ecology issued a penalty for the violation and required PFF to investigate the source and improve its treatment efficiency. The source of the elevated zinc levels is not yet known. Improper sample handling and lab contamination did not appear to be the cause. Known sources of zinc include galvanized steel on equipments, roofing, and tire-wear from trucks. There was no correlation between the elevated zinc levels and any specific activities or spill incidents at PFF. There was no difference in PFF's operations during the months when zinc spiked compared to the rest of the year. Based on existing information, Ecology has reason to believe that, although infrequent, the spikes are associated with normal operations at PFF and can occur again. Therefore, we took into consideration the zinc levels prior to March 2007 in our evaluation.

PFF April 2007 treatment study showed the current system can achieve about 48% zinc removal. Because the maximum zinc concentration detected in untreated storm water is 689 µg/L, the system can treat storm water to at least 358 µg/L. This is close to the current 330 µg/L limit. Therefore, Ecology proposed to retain the 330 µg/L limit and require routine monitoring of the influent (untreated storm water.) Routine monitoring is needed to gather data and determine if PFF can consistently treat zinc to the low concentrations CHB observed in Feb 2008-July 2009, especially during periods of high zinc loading. The data will be used to set a new zinc limit in the next permit cycle.

CHB's support of the progression toward lower limits and continuing reduction of pollutants to the waterways are consistent with anti-backsliding per federal regulations 40 CFR 122.44. Ecology understands CHB's concern and follows the anti-backsliding policy, which prohibits the

relaxing of limits. Except for special circumstances specified in 40 CFR 122.44, zinc and other limits will be at least equal or more stringent than in the previous permit.

**Comment #4 from Carrie Hernandez, Project Manager, Citizens for a Healthy Bay**

CHB contests the general use of mixing zones as they allow areas where potentially toxic chemicals are allowed to exceed water quality standards. Certain chemicals such as copper, zinc and pentachlorophenol may pose long term hazards as they have the potential for build up in the sediments. This is a special concern as the treated effluent discharges into a freshwater ditch (Lincoln Avenue Ditch) mixes with other facilities' wastewater and then enters the Blair Waterway. Has the Department of Ecology considered the full impacts on the mixing occurring in Lincoln Ave Ditch in its determination of defining mixing zone boundaries and has it also considered the potential of toxic buildup of heavy metals in the outfall sediments in the Blair Waterway?

**Response to Comment #4**

Ecology noted CHB's concern regarding the general use of mixing zone. The use of the mixing zone is in accordance with state rules per Chapter 173-201A WAC. Under state rules dischargers with mixing zones must provide all known available and reasonable treatment (AKART) and follow the mixing zone criteria in Chapter 173-201A WAC. PFF uses AKART and meets the mixing zone criteria, which ensures that the discharge has no reasonable potential to cause the loss of sensitive habitat or substantially impact water uses, ecosystem, and public health. Ecology evaluated PFF's discharge at the critical period and did not allow for dilution of the discharge with storm water in the Lincoln Avenue Ditch. We also used PFF's maximum pollutant concentrations and design flow rate in our evaluation. This resulted in a "worst-case" discharge scenario that considered the full impact of PFF's discharge to the Blair Waterway. Under this scenario, the discharge has no reasonable potential to exceed the water quality and human health criteria (see Fact Sheet Tables 12 and 13).

Ecology's Aquatic Lands Cleanup Unit reviewed sediments samples taken within the last 10 years near the outfall from the Lincoln Avenue Ditch to the Blair Waterway. Sampling results confirmed that the sediments meet marine numeric standards. Therefore, Ecology does not require sediments monitoring in the proposed permit. We will continue to evaluate potential impacts to the sediments at the next permit issuance.

Of the pollutants, pentachlorophenol has the most potential to impact the sediments because it is very hydrophobic and tends to associated with storm water solids. However, the pentachlorophenol concentration in PFF's discharge has been very low (< 0.10 µg/L) in the last 5 years. Ecology requires PFF to continue monitoring of pentachlorophenol in the effluent. If the concentration increases, Ecology will re-evaluate the data in the next permit and require sediments monitoring if warranted.

**Comment #5 from Carrie Hernandez, Project Manager, Citizens for a Healthy Bay**

CHB is in agreement with the majority of the monitoring schedule set forth by Ecology.

**Response to Comment #5**

Ecology noted the CHB's comment.