

Response to Comments on the Draft NPDES Permit Environmental Assessment and Finding of No Significant Impact for the Pacific Energy Resources Limited Osprey Platform

NPDES Permit Number AK0053309

August 2009

Background

On December 22, 2008, EPA issued a draft National Pollutant Discharge Elimination System (NPDES) permit for the Osprey platform, which is owned and operated by Pacific Energy Resources Limited (PERL), for public review and comment. Simultaneously, EPA issued an Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI) under the National Environmental Policy Act. The public comment period ended on January 21, 2009.

The previous permit was issued on May 23, 2002, became effective on July 1, 2002, and expired on June 30, 2007. Because the permittee submitted a timely and complete application for renewal of the 2002 permit, the permit was administratively extended pending reissuance (40 CFR 122.6).

EPA received comments on the draft NPDES permit from the permittee (PERL). EPA received comments on the EA and FONSI from the Ninilchik Traditional Council. The following is EPA's response to those comments.

Section 1: Response to Comments on the Draft NPDES Permit

Comment #1-1

PERL stated that, in item I.B.2, the draft permit requires pH monitoring of all discharges monthly, but does not require submission of the data. PERL requested clarification on data submittal requirements.

Response #1-1

The intent of this requirement is to require not only monitoring of pH, but submission of the results. However, EPA agrees that the language of the draft permit is not clear.

Revisions to the Draft Permit

The final permit states that the results of pH monitoring must be submitted on discharge monitoring reports.

Comment #1-2

PERL stated that the draft permit requires submission to EPA of a chemical inventory for non-contact cooling water and to the desalination wastewater discharge. PERL stated that there are no plans to discharge non-contact cooling water or desalination wastewater except in cases where injection is not feasible. PERL requested that the permit be changed such that the annual

chemical inventory is only required if the cooling water or desalination wastewater is discharged and that the inventory only covers those days when there is a discharge.

Response #1-2

The intent of this requirement is to require an inventory of chemicals that are added to non-contact cooling water and desalination wastewater that is discharged to surface water, and EPA recognizes that these may not be the same chemicals that are added to non-contact cooling water that is disposed of via underground injection.

Revisions to the Draft Permit

The language of these requirements have been changed such that they require an inventory of the type and quantity of biocides and chemicals added to non-contact cooling water and desalination wastewater that is discharged to surface water, and the permit now states that the annual inventories are only required for calendar years during which non-contact cooling water or desalination wastewater is discharged to surface water.

Comment #1-3

PERL stated in its comments that it requested permission to discharge Outfall 013 and asked if EPA was denying that outfall in the draft permit.

Response #1-3

On January 23, 2008, PERL sent a letter to EPA stating that discharge #013 (mud, cuttings and cement at sea floor) would not be discharged from the Osprey platform. Therefore, EPA is not authorizing this discharge in the permit.

Revisions to the Draft Permit

None.

Comment #1-4

PERL requested that EPA remove from the table those outfalls or discharges that are not allowed by the permit.

Response #1-4

EPA does not agree with the commenter that this change would be appropriate or beneficial. Listing the discharges that are not allowed by the permit in the table makes it clear which discharges are and are not allowed by the permit.

Revisions to the Draft Permit

None.

Comment #1-5

PERL stated that the draft permit requires WET testing of desalination discharges because the maximum amount of discharge was estimated to be over 10,000 gallons per day during drilling activities. PERL noted that this requirement is consistent with the Cook Inlet general permit.

PERL stated that the flow rate estimate is a worst-case scenario, and stated that PERL does not plan to discharge any desalination wastewater except in cases where injection is not feasible. PERL requested that there be a volume trigger for WET testing of desalination wastewater.

Response #1-5

EPA has not included a volume trigger for WET testing of desalination wastewater. The desalination wastes discharge was not authorized by the 2002 permit, thus, WET testing is necessary in order to characterize the discharge and determine if water quality-based effluent limits for WET, or chemical specific water quality-based effluent limits are necessary. The WET testing is necessary even if the volume of wastewater discharged is small. If the WET testing shows that the discharge does not have the reasonable potential to cause or contribute to water quality standards violations, then EPA will consider reducing the monitoring frequency for WET or including a volume trigger for WET testing. If there is no discharge of desalination wastewater during a given quarter, WET testing is not required.

Revisions to the Draft Permit

None.

Comment #1-6

PERL stated that the permit requires submission of whole effluent toxicity test data “by the 20th day in the last month of each quarter for quarterly samples and by the 20th day in the last month of each year for annual samples.” PERL stated that the draft permit requires that annual samples be collected in different months each year and that quarterly samples be collected in different months of the quarter each year, and this schedule will result in samples being collected and analyzed in the last month of the year and the last month of a quarter. PERL stated that obtaining results from WET testing is hampered by:

- Delays from the laboratory due to backlogs of other NPDES permittees performing quarterly WET testing.
- Cancellation of helicopter flights off the platform or fixed wing flights out of Kenai due to blowing snow or dense fog, WET tests may be started a couple of times until three shipments are able to get out on time. If the delay coincides with sampling during the last month of a quarter or the year, then test data will not be received by the 20th of the following month.

PERL requested that WET test data be reported in the next DMR after final data is received from the laboratory.

Response #1-6

First, EPA wishes to clarify that WET test data is not due to be submitted “by the 20th day in the last month of each quarter for quarterly samples and by the 20th day in the last month of each year for annual samples.” The draft permit required submission with the DMR for the last month of each quarter or year (for quarterly or annual sampling, respectively), which is not due until the 20th day of the month *following* the last month of the quarter or year. For example, under the draft permit, the results of annual sampling performed during calendar year 2010 would not be due until January 20th, 2011. See the draft permit at Parts I.C.10 and III.B.

EPA understands that it can be difficult to obtain monitoring results in a timely manner. However, if PERL were allowed to report WET test data in the DMR after final data is received from the laboratory, it would be difficult for EPA to determine if PERL was in compliance with this requirement because EPA could not anticipate when PERL would receive results from the laboratory and thus could not anticipate when the results should be submitted. Therefore, EPA will not require WET test data to be reported in the next DMR after final data is received from the laboratory.

EPA has changed the DMR due date from the 20th day of the month following the monitoring period to the 28th day of the month following the monitoring period. Consistent with the draft permit, this remains a postmark deadline, not a deadline for receipt. This change, coupled with the understanding that WET testing data is due the month after the end of the quarter or year should give PERL adequate time to submit WET testing data. Under all circumstances, PERL will have at least 4 weeks following the end of the quarter or the end of the year to obtain and submit results of WET testing.

Revisions to the Draft Permit

EPA has changed the DMR due date from the 20th day of the month following the monitoring month to the 28th day of the month following the monitoring month. See the final permit at Part III.B.

Comment #1-7

PERL stated that a quality assurance plan (QAP) and a best management practices plan (BMP) are due within 90 days of the effective date of the permit. Since PERL hopes to entirely avoid discharging during the term of this permit, PERL requested that the permit language be revised such that the QAP and the BMP plans must be developed and implemented within 90 days of the first discharge under the permit.

Response #1-7

The purpose of the QAP is to ensure that there are “adequate laboratory controls and appropriate quality assurance procedures,” as required by 40 CFR 122.41(e), which is applicable to all NPDES permittees. *See also* the fact sheet at page 18.

The purpose of the BMP plan is to control or abate the discharge of pollutants by controlling the generation of those pollutants as well as their release to waters of the United States. *See* 40 CFR 122.44(k) and the fact sheet at Page 18.

While EPA believes it is appropriate to allow the permittee 90 days following the effective date of the permit to update its QAP and BMP plans to reflect the changes in the reissued permit, EPA believes that, in general, adequate quality assurance procedures and best management practices should be in place prior to commencing discharge. Delaying the due dates of the QAP and BMP plans until after the first discharges under the permit would not accomplish this.

Revisions to the Draft Permit

None.

Comment #1-8

PERL requested confirmation that sampling and monitoring is not required during periods of no discharge.

Response #1-8

If there is no discharge during a particular monitoring period, for a particular discharge authorized by the permit, then DMRs must still be submitted, but they may simply be marked “no discharge.” No monitoring would be required if there is no discharge during the monitoring period, because there would be nothing to monitor or sample.

Revisions to the Draft Permit

None.

Section 2: Response to Comments on the Environmental Assessment and Finding of No Significant Impact

Comment #2-1

The Ninilchik Traditional Council stated that the Environmental Assessment inaccurately assumes that only four tribes will be affected by the discharges authorized in the proposed permit. The commenter noted there are ten tribes and many other communities along the coast that may be affected by contaminants discharged into the waters of Cook Inlet.

Response #2-1

EPA acknowledges that the Environmental Assessment (EA) does not specifically identify each tribe or community which has the potential to be affected by the discharges authorized in the proposed permit. Rather, the evaluation in the EA focuses on the four communities most likely to be affected by the proposed permit due to their relative proximity to the facility (i.e., Tyonek, Kenai, Nikiski, and Soldotna). EPA believes that the four communities identified in the EA are sufficiently representative of the potential impacts other tribes and communities in the Cook Inlet area may experience as a result of the proposed permit re-issuance.

Comment #2-2

The Ninilchik Traditional Council commented that, on Pg. 3-20, the EA states that in a 10 year period it has been reported that approximately 357,000 gallons of crude and diesel oil have been discharged into Cook Inlet waters [as a result of accidental oil spills], and that it is known that fish health suffers as a result of oil spills.

Response #2-2

As the commenter noted, Table 3-10 of the Environmental Assessment lists some of the major oil spills within Cook Inlet waters reported by the Alaska Department of Environmental Conservation (ADEC) between 1987 and 1997. However, most of the spills (by volume) were the result of surface vessel accidents. The Osprey Platform has developed and implemented an Oil Discharge Prevention and Contingency Plan (C-Plan), approved by ADEC, which contains specific methods to prevent, detect, and respond to oil spills in the event they occur. The C-Plan

includes a Spill Prevention Control and Countermeasure Plan (SPCC plan) and a Best Management Plan (BMP) that specifically lists potential major spill sources, maximum worst-case volumes, and major mitigation measures. The SPCC plan and BMP include practices and procedures for training personnel operating the Osprey Platform to minimize the risk of spills and appropriately respond when accidents occur. The C-Plan is periodically reviewed, drills conducted, and appropriate updates made to ensure the ongoing effectiveness of the plans' practices and procedures.

Comment #2-3

The Ninilchik Traditional Council stated that there are many issues identified in the EA that indicate further investigations should be performed. The commenter noted the need for further analysis of the environmental impacts that facilities like the Osprey Platform are producing and that other options have not been explored such as injecting discharges into the formation.

Response #2-3

There has been a significant amount of environmental review and analysis regarding the effects of oil and gas production in Cook Inlet. The Osprey Platform routinely injects the majority of its discharges, with the exception of fire control test water, into its Class I/II Underground Injection Control (UIC) well permitted by the Alaska Oil and Gas Conservation Commission. The operator has indicated that this is likely to continue in the future, but required the operational flexibility to discharge to surface waters via a National Pollutant Discharge Elimination System (NPDES) permit, if necessary.

Comment #2-4

The Ninilchik Traditional Council expressed concern over the number of previous effluent violations that have occurred at the Osprey Platform. The commenter questioned how EPA could issue a Finding of No Significant Impact (FONSI) when it appears the facility has been unable to comply with the effluent limitations specified in their NPDES permit. The commenter concluded by disagreeing with the FONSI document.

Response #2-4

Between January 2001 and July 2005, there were a total of 2,600 effluent violations at the Osprey Platform, most of which were for sanitary and domestic wastewater discharges. However, since July of 2005 there have been no reported effluent violations at the Osprey Platform and currently, with the exception of fire control test water, all authorized discharges are routinely injected into the platforms Class I/II UIC well. EPA does not believe that the permittees' past sanitary and domestic wastewater violations are indicative of current or future permit compliance at the Osprey Platform.

EPA believes that a Finding of No Significant Impact is warranted for the proposed permit action. Re-issuance of the Osprey Platform's NPDES permit is not expected to result in a significant adverse impact on the human environment, and the EA supports this determination.