



United States Environmental Protection Agency (EPA)  
Region 10  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et seq., as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act",

ENI, UNITED STATES OPERATING CO., INC.  
3800 CENTERPOINT DR., SUITE 300  
ANCHORAGE, ALASKA 99503

is authorized to discharge from

**Eni, Spy Island Drillsite Wastewater Treatment Plant**  
a facility classified as SIC No. 1311 and  
located on the North Slope, Alaska

to

SIMPSON LAGOON of the Alaskan Beaufort Sea (the "receiving waters"),  
at Latitude 70° 33' 16"N and Longitude 149° 53' 2"W,  
and in USGS Hydrologic Unit No. 19010001

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on **DATE, 2012**

This permit and the authorization to discharge shall expire at midnight, on **DATE, 2017**

THE PERMITTEE SHALL REAPPLY FOR A PERMIT REISSUANCE ON OR BEFORE, xxxxxxxx, **2017** (180 days before the expiration of this permit) if the permittee intends to continue operations and discharges at the facility beyond the term of this permit (see Part V.B., Duty to Reapply).

Signed this xxxx xx 2012

**DRAFT PERMIT**

Michael Bussell, Director  
Office of Water and Watersheds

**TABLE OF CONTENTS**

Cover Page

Schedule of Submissions

**I. LIMITATIONS AND MONITORING REQUIREMENTS..... 5**

- A. Discharge Authorization ..... 5
- B. Effluent Limitations and Monitoring ..... 5
- C. Monitoring Procedures..... 7
- D. Other Effluent Conditions..... 7
- E. Quality Assurance Project Plan Requirements ..... 7

**II. BEST MANAGEMENT PRACTICES (BMP) PLAN..... 8**

- A. Purpose..... 8
- B. Development and Implementation Schedule ..... 8
- C. Documentation..... 8
- D. Modification of the BMP Plan..... 9

**III. MONITORING, RECORDING AND REPORTING REQUIREMENTS ..... 10**

- A. Representative Sampling (Routine and Non-Routine Discharges)..... 10
- B. Reporting of Monitoring Results..... 10
- C. Monitoring Procedures..... 11
- D. Additional Monitoring by Permittee..... 11
- E. Records Contents ..... 11
- F. Retention of Records..... 11
- G. Notice of Noncompliance Reporting ..... 12
- H. Other Noncompliance Reporting ..... 12
- I. Changes in Discharge of Toxic Substances ..... 12

**IV. COMPLIANCE RESPONSIBILITIES ..... 13**

- A. Duty to Comply ..... 13
- B. Penalties for Violations of Permit Conditions..... 13
- C. Need to Halt or Reduce Activity not a Defense..... 15
- D. Duty to Mitigate..... 15
- E. Proper Operation and Maintenance ..... 15
- F. Bypass of Treatment Facilities..... 15
- G. Upset Conditions..... 16
- H. Toxic Pollutants ..... 16
- I. Planned Changes..... 17
- J. Anticipated Noncompliance..... 17

**V. GENERAL PROVISIONS..... 17**

- A. Permit Actions ..... 17
- B. Duty to Reapply ..... 17
- C. Duty to Provide Information..... 17
- D. Other Information ..... 17
- E. Signatory Requirements..... 18
- F. Availability of Reports..... 19
- G. Inspection and Entry ..... 19
- H. Property Rights ..... 19
- I. Transfers ..... 19

J. State Laws.....20

**VI. DEFINITIONS ..... 21**

**Schedule of Submissions.** The following table summarizes some of the submissions required under the permit. The permittee is responsible for all submissions and activities even if they are not summarized below.

<b>Permit Parts</b>	<b>Submissions and Notification Requirements</b>	<b>Due Dates</b>
I.B.6.	Chemical Inventory	Must be submitted with March DMR of the following calendar year.
I. E.	Quality Assurance Project Plan (QAPP)	Within 90 days of the effective date of this permit, the QAPP must be implemented, and EPA and Alaska Department of Environmental Conservation (DEC) must be notified in writing.
II	Best Management Practices (BMP) Plan	Within 90 days of the effective date of this permit, the permittee must submit a letter to EPA and DEC certifying that the BMP Plan has been developed or updated and is being implemented.
III.B.	Discharge Monitoring Reports (DMRs)	DMRs must be submitted to EPA and DEC no later than the 10 <sup>th</sup> of the month following the completed reporting period.
III.B.2.	Annual Report	Annual report must be submitted with March DMR.
III.G.	Twenty-Four Hour Notice of Noncompliance Reporting	Report occurrences of noncompliance by telephone within 24 hours
V.B.	Duty to Reapply	Submit a new application at least 180 days before the expiration date of this permit.

I. LIMITATIONS AND MONITORING REQUIREMENTS

A. DISCHARGE AUTHORIZATION

During the term of the permit, the permittee is authorized to discharge wastewater from the facility through Outfalls 001 and 002 to Simpson Lagoon of the Beaufort Sea, within the limits and subject to the conditions set forth herein. There is no authorization to discharge any pollutants that were not expressly identified in the permit application process and that are not also described in the following National Pollutant Elimination System (NPDES) permit.

B. EFFLUENT LIMITATIONS AND MONITORING

1. The permittee must limit and monitor discharges from Outfall 001 and Outfall 002 as specified in Tables 1 and 2, respectively. Discharge limits and monitoring requirements discussed below apply only during active discharge to surface water. The discharge effluent limits represent maximum values unless otherwise indicated. When discharging, the permittee must comply with the effluent limits in Tables 1 and 2 at all times, unless otherwise indicated, and regardless of the frequency of monitoring or reporting required by other provisions of this permit.

<b>Table 1. Effluent Limitations and Monitoring Requirements for Outfall 001 Domestic and Sanitary Wastewater</b>						
<b>Effluent Parameter</b>	<b>Units</b>	<b>Effluent Limitations</b>			<b>Monitoring Requirements</b>	
		<b>Average Monthly Limit</b>	<b>Maximum Daily Limit</b>	<b>Minimum Daily Limit</b>	<b>Sample Frequency</b>	<b>Sample Type</b>
Flow	gpd	---	20,800	---	Daily	Measured/ recorded
BOD <sub>5</sub>	mg/l	30	60	---	Monthly	Grab <sup>note 1</sup>
TSS	mg/l	30	60	---	Monthly	Grab <sup>note 1</sup>
Floating Solids & Garbage		no discharge			Daily	Visual <sup>note 2</sup>
Foam		no discharge			Daily	Visual <sup>note 2</sup>
Oily Sheen		no discharge			Daily	Visual <sup>note 2</sup>
pH <sup>note 3</sup>	s.u.	6.5 – 8.5			Monthly	Grab
Fecal Coliform Bacteria	#/100mL	14 <sup>note 4</sup>	43 <sup>note 5</sup>	---	Monthly	Grab
Enterococci	#/100mL	35 <sup>note 4</sup>	501 <sup>note 5</sup>	---	Monthly	Grab
Dissolved Oxygen	mg/l	---	17	6	Monthly	Grab

**Notes:**

- 1 Composite samples may be collected in lieu of grab samples and must consist of at least four equal volume grab samples, two of which must be taken during periods of peak flow.
- 2 The permittee must monitor by observing the surface of the receiving water in the vicinity of the outfall(s) during

daylight at the time of maximum estimated or measured discharge and during conditions when observations on the surface of the receiving water are possible in the vicinity of the discharge. The observations and time of day must be recorded pursuant to Part III.E. The numbers of days floating solids, garbage, foam or oily sheen are observed must be recorded and reported in the DMR.

<sup>3</sup> The limitation shall be 6.5 to 8.5 standard units and within 0.2 standard units of the receiving water.

<sup>4</sup> Must be reported as the monthly geometric mean.

<sup>5</sup> Instantaneous maximum limit.

<b>Table 2. Effluent Limitations and Monitoring Requirements for Outfall 002 Desalination Unit Wastewater</b>					
<b>Parameter</b>	<b>Units</b>	<b>Average Monthly</b>	<b>Maximum Daily</b>	<b>Sampling Method and Frequency</b>	<b>Reported Values</b>
Flow	gpd	--	111,500	Calculation or meter, daily	Average monthly and maximum daily
TSS	mg/L	30	60	Grab, monthly	Average monthly and maximum daily
pH <sup>note 1</sup>	s.u.	6.5 – 8.5		Grab, monthly	Minimum and maximum monthly values
Temperature <sup>note 2</sup>	°C	--	Not to exceed 15°C	Recording or meter, daily	Maximum daily
Salinity <sup>note 3</sup>	ppt	--	--	Grab, monthly	Intake and effluent

**Note 1:** The limitation shall be 6.5 to 8.5 standard units and within 0.2 standard units of the receiving water.

**Note 2:** May not cause the weekly average temperature to increase more than 1°C. Normal daily temperature cycles may not be altered in amplitude or frequency.

**Note 3:** See Table 3.

<b>Table 3. Maximum Allowable Variation Above Natural Salinity</b>	
Natural Salinity (ppt)	Human-Induced Salinity (ppt)
0.0 to 3.5	1
Greater than 3.5 to 13.5	2
Greater than 13.5 to 35.0	4

2. No discharge of floating solids or visible foam of any kind is authorized under this NPDES permit. Additionally, any discharges authorized in this NPDES permit must not cause a film, sheen, or discoloration on the water surface, seafloor, or adjoining shorelines.
3. Discharge diesel oil, halogenated phenol compounds, trisodium nitrilotriacetic acid, sodium chromate, or sodium dichromate is not authorized under this NPDES permit.
4. Discharge domestic and sanitary wastes must occur below the water surface.

C. MONITORING PROCEDURES

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been approved by EPA.

1. Sample and measurements must be representative of the volume and nature of the monitoring discharge.
2. The permittee must collect all effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
3. The permittee must ensure that all effluent monitoring is conducted in compliance with good quality assurance and control procedures and the requirements of the permit.

D. OTHER EFFLUENT CONDITIONS

1. The permittee is prohibited from discharging diesel oil, halogenated phenolic compounds, trisodium nitrilotriacetic acid, sodium chromate or sodium dichromate.
2. The permittee is prohibited from discharging surfactants, dispersants, and detergents.

E. QUALITY ASSURANCE PROJECT PLAN REQUIREMENTS

The permittee must develop or update a quality assurance project plan (QAPP) for all monitoring required by this permit. Within 90 days of the effective date of this permit, the QAPP must be implemented, and EPA and the Alaska Department of Environmental Conservation (DEC) must be notified in writing that the QAPP has been developed and implemented. Any existing QAPPs may be modified to fulfill the requirements under this part.

1. The QAPP must be plan for the collection and analysis of effluent and receiving water samples in support of the permit, and provide a mechanism to explain data anomalies if and when they occur.
2. Throughout all sample collection and analysis activities, the permittee must use the EPA-approved QA/QC and chain-of-custody procedures described in *Requirements for Quality Assurance Project Plans (EPA/QA/R-5)* and *Guidance for Quality Assurance Project Plans (EPA/QA/G-5)*. The QAPP must be prepared in the format specified in the documents referenced above in this paragraph.
3. The permittee must amend the QAPP whenever there is a modification in methods for sample collection, sample analysis, or other procedure addressed by the QAPP or a change in the guidance cited above.
4. Copies of the QAPP must be kept on site and made available to EPA and DEC upon request.

## II. BEST MANAGEMENT PRACTICES (BMP) PLAN

### A. PURPOSE

Through implementation of the BMP Plan, the permittee must prevent or minimize the generation and the potential for release of pollutants from the facility to the waters of the United States through normal and ancillary activities of the facility. Discharges that cannot be prevented or reduced must be recycled or treated and discharged in an environmentally safe manner.

### B. DEVELOPMENT AND IMPLEMENTATION SCHEDULE

The permittee must develop and implement a BMP Plan that achieves the objectives and the specific requirements listed below. Any existing BMP Plans may be modified to comply with this part and the general guidance contained in *Guidance Manual for Developing Best Management Practices* (EPA 833-B-93-004, October 1993) and *Storm Water Management For Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices* (EPA 832-R.92.006) or any subsequent revision to these guidance documents. Within 90 days of the effective date of this permit, the permittee must submit a letter to EPA and DEC certifying that the BMP Plan has been developed or updated and is being implemented. The certification must be signed in accordance with the Signatory Requirements of Part V.E. The permittee must develop its BMP Plan consistent with these objectives:

- 1) The number and quantity of pollutants and the toxicity of effluent generated, discharged or potentially discharged at the facility must be minimized by the permittee to the extent feasible by managing each influent waste stream in the most appropriate manner.
- 2) Under the BMP Plan, and any Standard Operating Procedures (SOPs) included in the Plan, the permittee must ensure proper operation and maintenance of the treatment facility.

### C. DOCUMENTATION

1. The permittee must develop a BMP Plan in accordance with good engineering practices. The permittee must provide the necessary plot plans, drawings, or maps in its BMP Plan. The BMP Plan will be organized and written with the following structure:
  - (a) name and location of the facility;
  - (b) statement of BMP policy;
  - (c) identification and assessment of potential effects of the pollutant discharges;
  - (d) specific management practices and standard operating procedures to achieve the above objectives, including, but not limited to:
    - (i) The modification of equipment, facilities, technology, processes, and procedures, and

- (ii) The improvement in management, inventory control, materials handling, or general operational phases of the facility;
  - (iii) The requirement of for use of low phosphate or phosphate free detergents at the facility must be included in the BMP Plan; and
  - (iv) Ensure alternative disposal practices for excess cooking oils to minimize discharge of oils and grease to surface waters.
- (e) good housekeeping;
  - (f) preventative maintenance;
  - (g) inspections and records; and
  - (h) employee training.
2. The BMP Plan will include the following provisions concerning its review:
- (a) provide for a review by the facility manager and appropriate staff; and
  - (b) include a statement that the above review has been completed and that the BMP Plan fulfills the requirements set forth in the permit – the facility manager must certify and date the statement. The certification must be signed in accordance with the Signatory Requirements of Part V.E.
3. The permittee must maintain a copy of its BMP Plan at the facility and must make the plan available to EPA and DEC for review and approval upon request.

**D. MODIFICATION OF THE BMP PLAN**

1. The permittee must amend the BMP Plan whenever there is a change in the facility, its operations, or when any other circumstances materially increase the generation of pollutants and their release, or potential release, to receiving waters. Any changes to the BMP Plan must be consistent with the objectives and specific requirements listed in Part II. The facility manager or his designee must review and approve each change to the BMP Plan in accordance with Part II.C.2.
2. If a BMP Plan proves to be ineffective in achieving the general objective of preventing and minimizing the generation of pollutants and their release or potential release to the receiving waters, or the specific requirements above, then the permit or the BMP Plan will be subject to modification to incorporate revised BMP requirements.

### III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

#### A. REPRESENTATIVE SAMPLING (ROUTINE AND NON-ROUTINE DISCHARGES)

1. The permittee must ensure that samples and measurements taken for the purpose of monitoring are representative of the monitored activity.
2. To ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters in Part I.B.
3. The permittee must collect additional samples as soon as the spill, discharge, or bypassed effluent reaches the applicable outfall. The samples must be analyzed in accordance with Part III.C (“Monitoring Procedures”). The permittee must report all additional monitoring in accordance with Part III.D (“Additional Monitoring by Permittee”).

#### B. REPORTING OF MONITORING RESULTS

1. The permittee must summarize monitoring results each month on the DMR form (EPA No. 3320-1, or equivalent). The permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Part V.E. of this permit (“Signatory Requirements”). At the direction of the Director, the permittee must submit monitoring data and other reports either electronically using NetDMR, or paper submissions.

If a permittee is directed to submit DMRs and other reports using NetDMR, it will no longer be required to submit paper copies. DMRs must be submitted to EPA and DEC no later than the 10<sup>th</sup> of the month following the completed reporting period.

If paper submissions are required, the permittee must submit legible originals of the documents to the Office of Compliance and Enforcement at the address below (“Submission of Information”):

Office of Compliance and Enforcement  
U. S. Environmental Protection Agency, Region 10  
ATTN: ICIS Data Entry Team  
1200 Sixth Avenue, Suite 900, **OCE-133**  
Seattle, Washington 98101  
NPDES Compliance Hotline: (206) 553-1846

NetDMR is accessed from <http://www.epa.gov/netdmr>.

2. Annual Report. If the permittee uses biocides or chemicals in its treatment systems, the permittee must include in its annual report a summary of the type of chemicals, the quantities and rates of use, concentrations, and locations in the

systems where they are used. The annual report must include a summary of the effluent monitoring data. The report must also include a description of each permit violation, upset condition, by-pass condition, plant or process change, and corrective action(s) undertaken to improve wastewater treatment and pollution prevention at the facility. The annual report must provide a comprehensive record of wastewater discharge at the facility; and the report must include an electronic spreadsheet containing all historical data beginning with the effective date of this permit, as well as a comparison of monitoring results over time (to show any trends). The annual report must cover the entire calendar year that precedes the March DMR to EPA. The annual report must be signed in accordance with the Signatory Requirements of Part V.E., and submitted to EPA and DEC with the March DMR.

**C. MONITORING PROCEDURES**

The permittee must conduct monitoring according to test procedures approved under 40 C.F.R. Part 136, unless other test procedures have been specified in this permit.

**D. ADDITIONAL MONITORING BY PERMITTEE**

1. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 C.F.R. Part 136 or as specified in this permit, the permittee must include the results of that monitoring in the calculation and reporting of the data submitted in each DMR.
2. Upon request by the EPA, the permittee must submit results of any other sampling, regardless of the test method used.

**E. RECORDS CONTENTS**

Records of monitoring information must include the following:

1. date, exact place, and time of sampling or measurements;
2. name(s) of the individual(s) who performed the sampling or measurements;
3. date(s) analyses were performed;
4. names of the individual(s) who performed the analyses;
5. analytical techniques or methods used; and
6. results of each analysis.

**F. RETENTION OF RECORDS**

The permittee must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of DMRs, a copy of this NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five (5) years from the date of the sample, measurement, report or application. This period may be extended by EPA or DEC at any time.

**G. NOTICE OF NONCOMPLIANCE REPORTING**

1. The permittee must report occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the following circumstances:
  - (a) any noncompliance that may endanger health or the environment;
  - (b) any unanticipated bypass that exceeds any effluent limitation in the permit (See Part IV.F., "Bypass of Treatment Facilities"); and/or
  - (c) any upset that exceeds any effluent limitation in the permit (See Part IV.G., "Upset Conditions").
2. The permittee must also provide a written submission within five (5) days of the time that the permittee becomes aware of any event required to be reported under Paragraph III.G.1. Each written submission must contain:
  - (a) a description of the noncompliance and its cause;
  - (b) the period of noncompliance, including exact dates and times;
  - (c) the estimated time noncompliance is expected to continue if it has not been corrected; and
  - (d) steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
3. The Director of the Office of Compliance and Enforcement may waive the written 5 day report, discussed in Part III.G.2, on a case-by-case basis if the oral report, discussed in Part III.G.1, is received within 24 hours by the NPDES Compliance Hotline in Seattle, Washington, by telephone, (206) 553-1846.
4. Noncompliance reports must be submitted to the addresses in Part III.B ("Reporting of Monitoring Results").

**H. OTHER NONCOMPLIANCE REPORTING**

The permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Part III.B ("Reporting of Monitoring Results") are submitted. The reports must contain the information listed in Part III.G of this permit ("Notice of Noncompliance Reporting").

**I. CHANGES IN DISCHARGE OF TOXIC SUBSTANCES**

The permittee must provide notice to the Director of the Office of Water and Watersheds and DEC as soon as it knows, or has reason to believe:

1. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in the permit if that discharge will exceed the highest of the following "notification levels":
  - (a) one hundred micrograms per liter (100 µg/L);

- (b) two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
  - (c) five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
  - (d) the level established by EPA in accordance with 40 CFR 122.44(f).
2. That any activity has occurred or will occur that would result in the discharge, on a non-routine or infrequent basis, of any toxic pollutant that is not limited in the permit if that discharge will exceed the highest of the following “notification levels”:
- (a) five (5) hundred micrograms per liter (500 µg/L)
  - (b) one (1) milligram per liter (1 mg/L) for antimony;
  - (c) ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
  - (d) the level established by EPA in accordance with 40 CFR 122.44(f).
3. The permittee must submit the notification to EPA, Region 10, Office of Water and Watersheds at the following address:

U.S. Environmental Protection Agency (OWW-130)  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

#### IV. COMPLIANCE RESPONSIBILITIES

##### A. DUTY TO COMPLY

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application.

##### B. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS.

1. Civil and Administrative Penalties. Pursuant to 40 CFR Part 19 and the Act, any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461

note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$37,500 per day for each violation).

2. **Administrative Penalties.** Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR Part 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$16,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$37,500). Pursuant to 40 CFR 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$16,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$177,500).
3. **Criminal Penalties**
  - (a) **Negligent Violations.** The Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both.
  - (b) **Knowing Violations.** Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.
  - (c) **Knowing Endangerment.** Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as

defined in section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

- (d) False Statements. The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

**C. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE**

It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this permit.

**D. DUTY TO MITIGATE**

The permittee must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

**E. PROPER OPERATION AND MAINTENANCE**

The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems installed by the permittee and used when necessary to achieve compliance with the conditions of the permit.

**F. BYPASS OF TREATMENT FACILITIES**

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part IV.F.2 and IV.F.3.
2. Notice.

- (a) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it must submit prior notice, to the Director and DEC if possible at least 10 days before the date of the bypass.
- (b) Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required under Part III.G ("Notice of Noncompliance Reporting").

3. Prohibition of bypass.

- (a) Bypass is prohibited, and the Director or DEC may take enforcement action against the permittee for a bypass, unless:
  - (i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
  - (iii) The permittee submitted notices as required under Part IV.F.2.
- (b) The Director of the Office of Compliance and Enforcement may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part IV.F.3.a.

**G. UPSET CONDITIONS**

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations, if the permittee meets the requirements of Part IV.G.2. No determination made during administrative review of claims that noncompliance was caused by an upset, and before an enforcement action for that noncompliance, is a final administrative action subject to judicial review.
2. Conditions necessary for a demonstration of upset. To establish the affirmative defense of upset, the permittee must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (a) an upset occurred and that the permittee can identify the cause(s) of the upset;
  - (b) the facility was being properly operated at the time of the upset;

- (c) the permittee submitted a notice of the upset as required under Part III.G, “Notice of Noncompliance Reporting;” and
  - (d) the permittee complied with any remedial measures required under Part IV.D, “Duty to Mitigate.”
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

#### **H. TOXIC POLLUTANTS**

The permittee must comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the applicable standard or prohibition.

#### **I. PLANNED CHANGES**

The permittee must notify the Director of the Office of Water and Watersheds and DEC as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

- 1. the alteration or addition to the facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); and/or
- 2. the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this permit.

#### **J. ANTICIPATED NONCOMPLIANCE**

The permittee must give advance notice to the Director of the Office of Compliance and Enforcement and DEC of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

### **V. GENERAL PROVISIONS**

#### **A. PERMIT ACTIONS**

This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR §122.62, §122.64, or §124.5. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

#### **B. DUTY TO REAPPLY**

If the permittee intends to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. In accordance with 40 CFR §122.21(d), and unless permission for the application to be submitted at a later date has been granted by the Director, the permittee must submit a new application at least 180 days before the expiration date of this permit.

#### **C. DUTY TO PROVIDE INFORMATION**

The permittee must furnish to EPA and DEC, within the time specified in the request, any information that the EPA or DEC may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee must also furnish to the Director or DEC, upon request, copies of records required to be kept by this permit.

**D. OTHER INFORMATION**

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to EPA or DEC, it must promptly submit such facts or information.

**E. SIGNATORY REQUIREMENTS**

All applications, reports or information submitted to EPA and DEC must be signed and certified as follows.

1. All permit applications must be signed as follows:
  - (a) For a corporation: by a responsible corporate officer.
  - (b) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
  - (c) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the EPA or DEC must be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - (a) The authorization is made in writing by a person described above;
  - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company; and
  - (c) The written authorization is submitted to the EPA and DEC.
3. Changes to authorization. If an authorization under Part V.E.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part V.E.2. must be submitted to the EPA and DEC prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this Part must make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**F. AVAILABILITY OF REPORTS**

In accordance with 40 CFR Part 2, information submitted to EPA pursuant to this permit may be claimed as confidential by the permittee. In accordance with the Act, permit applications, permits and effluent data are not considered confidential. Any confidentiality claim must be asserted at the time of submission by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice to the permittee. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2, Subpart B (Public Information) and 41 Fed. Reg. 36902 through 36924 (September 1, 1976), as amended.

**G. INSPECTION AND ENTRY**

The permittee must allow the Director of the Office of Compliance and Enforcement, EPA Region 10, DEC, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and/or
4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

**H. PROPERTY RIGHTS**

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, nor any infringement of state or local laws or regulations.

**I. TRANSFERS**

This permit is not transferable to any person except after notice to the Director of the Office of Water and Watersheds. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (See 40 CFR §122.61; in some cases, modification or revocation and reissuance is mandatory).

**J. STATE LAWS**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

## VI. DEFINITIONS

§ means section or subsection.

AAC means the Alaska Administrative Code.

Act means the Clean Water Act.

Active discharge, for the purposes of this permit, means discharges to surface water under conditions or circumstances beyond the control of the operator which prevents the discharge of sanitary/domestic and desalination wastewaters to the UIC well. Circumstances may include required annual Mechanical Integrity Testing of the UIC well; mechanical breakdowns associated with any of the injection machinery (i.e. pumps, motors, meters/gauges or valves/piping)...

Administrator means the Administrator of the EPA, or an authorized representative.

Average Monthly Limit means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

°C means degrees centigrade.

CFR means the Code of Federal Regulations.

CWA, or the Act, means the Clean Water Act.

Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Daily Maximum Discharge means the highest allowable "daily discharge" and is also referred to as the "maximum daily discharge."

DEC means Alaska Department of Environmental Conservation.

Discharge Monitoring Report (DMR) means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by "approved States" as well as by EPA.

Director means the Director of the Office of Water and Watersheds, or Director of the Office of Compliance and Enforcement, EPA, or authorized representatives.

Discharge of a pollutant means any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source".

EPA means the United States Environmental Protection Agency.

Facility means Spy Island Drillsite Wastewater Treatment Plant.

°F means degrees Fahrenheit.

Grab Sample is an individual sample collected over a period of time not exceeding 15 minutes.

Maximum means the highest measured discharge or pollutant in a waste stream during the time period of interest.

Maximum Daily Limit means the highest allowable "daily discharge."

Method Detection Limit (MDL) is defined as the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

MGD means million gallons per day.

mg/L means milligrams per liter.

Permittee means Eni United States Operating Co., Inc.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

ppt means parts per thousand.

QA/QC means quality assurance/quality control

QAPP means Quality Assurance Project Plan

Regional Administrator means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.

SOP mean Standard Operating Procedures.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.