

DRAFT

Permit No.: **AK-005334-1**

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
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",

Sumitomo Metal Mining Pogo LLC.

is authorized to discharge from the **Pogo Gold Mine** located 38 miles northeast of Delta Junction, Alaska, at the following locations (datum: NAD 83 Geographic):

| <u>Outfall</u> | <u>Receiving Water</u> | <u>Latitude</u> | <u>Longitude</u> |
|----------------|------------------------|-----------------|------------------|
| 001 | Goodpaster River | 64° 28' 12" | 144° 55' 03" |
| 002 | Goodpaster River | 64° 26' 36" | 144° 56' 30" |

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

This permit shall become effective **<Date>**

This permit and the authorization to discharge shall expire at midnight, **<Date>**

The permittee shall reapply for a permit reissuance on or before **<date>**, 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.

Signed this _____ day of _____.

DRAFT

Michael A. Bussell, Director
Office of Water & Watersheds, Region 10
U.S. Environmental Protection Agency

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I. LIMITATIONS AND MONITORING REQUIREMENTS

During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfalls specified herein to the Goodpaster River, within the limits and subject to the conditions set forth herein. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

A. Effluent Limitations and Monitoring - Outfall 001

The permittee must limit and monitor discharges from outfall 001 as specified in Table 1, below. All figures represent maximum effluent limits unless otherwise indicated. The permittee must comply with the effluent limits in the tables at all times unless otherwise indicated, regardless of the frequency of monitoring or reporting required by other provisions of this permit.

1. Outfall 001 Limitations and Monitoring

| Table 1 - Outfall 001 Effluent Limitations and Monitoring Requirements | | | | | |
|---|-----------------|------------------------|-----------------|-------------------------|-------------|
| Parameter | Units | Effluent Limitations | | Monitoring Requirements | |
| | | Maximum Daily | Average Monthly | Sample Frequency | Sample Type |
| Arsenic | ug/L | — | — | monthly | grab |
| Cadmium ^{1,2} | ug/L | 0.2 | 0.1 | weekly | grab |
| Copper ^{1,2} | ug/L | 4.5 | 2.2 | weekly | grab |
| Cyanide ³ | ug/L | 6.9 | 4.7 | weekly | grab |
| Lead ^{1,2} | ug/L | 1.3 | 0.5 | weekly | grab |
| Manganese ^{1,2} | ug/L | 88 | 50 | weekly | grab |
| Mercury ^{2, 4} | ug/L | 0.02 | 0.01 | weekly | grab |
| Zinc ^{1,2} | ug/L | 43.0 | 16.8 | monthly | grab |
| TDS | mg/L | — | — | monthly | grab |
| Turbidity, effluent | NTU | see Permit Part 1.A.4. | | monthly | grab |
| Turbidity, natural condition | NTU | — | — | monthly | grab |
| Sulfates | mg/L | — | — | monthly | grab |
| pH ⁷ | s.u. | see Permit Part 1.A.3. | | continuous | recording |
| Outfall Flow ⁵ | gpm | 15,600 | — | continuous | recording |
| Hardness, as CaCO ₃ | mg/L | — | — | monthly | grab |
| Chronic Whole Effluent Toxicity ⁶ | TU _c | — | — | annually | grab |

| Table 1 - Outfall 001 Effluent Limitations and Monitoring Requirements | | | | | |
|--|-------|----------------------|-----------------|-------------------------|-------------|
| Parameter | Units | Effluent Limitations | | Monitoring Requirements | |
| | | Maximum Daily | Average Monthly | Sample Frequency | Sample Type |
| Footnotes: | | | | | |
| 1 - Parameters must be analyzed and reported as total recoverable unless otherwise noted. | | | | | |
| 2 - Reporting of a maximum daily limit violation is required according to Permit Part III.G. | | | | | |
| 3 - Cyanide will be analyzed as weak acid dissociable cyanide (WAD) | | | | | |
| 4 - Mercury must be analyzed and reported as total. | | | | | |
| 5 - See Permit Part I.A.6. | | | | | |
| 6 - See Permit Part I.D. for whole effluent toxicity testing requirements. | | | | | |
| 7 - Under 40 CFR 401.17, if a permittee continuously measures the pH of wastewater, excursions from the effluent limit range are permitted subject to the following limitations: (a) The total time during which the Ph values are outside the required range shall not exceed 7 hours and 26 minutes in any calendar month; and (b) No individual excursion from the range of pH values shall exceed 60 minutes. Any excursions should be fully reported within the cover letter. Excursions beyond this exemption should be reported within the DMR. | | | | | |

2. The permittee must not discharge any floating solids, visible foam in other than trace amounts, or oily wastes that produce a sheen on the surface of the receiving water. Daily visual monitoring is required.
3. The pH must not be less than 6.5 standard units (s.u.) nor greater than 8.5 s.u.
4. The turbidity measured in nephelometric turbidity units (NTU) must not be more than 5 NTUs above the natural condition. The natural condition sample taken from the Goodpaster River at the point designated NPDES 001b must be taken within an hour of the effluent sample.
5. The permittee must collect samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
6. The flow from Pond 1 into Pond 2 shall not exceed 25 times the flow from the treatment plant into Pond 2. Under extraordinary circumstances such as a system upset (Permit Part III.G.) or unanticipated bypass (Permit Part III.F.), EPA and ADEC may authorize an increased dilution ratio to mitigate the impacts of the upset or bypass on the Goodpaster River. In the event that no flow from the treatment plant was occurring, the dilution ratio would not apply after 72 hours of the last effluent from the treatment plant entering the ORTW because the flow from Pond 1 would not be diluting any flow from the treatment plant.
7. Minimum Levels. For all effluent monitoring, the permittee must use methods (see Permit Part III.C) that can achieve a minimum level (ML) less than the effluent limitation. A facility specific ML of 20 ug/L is being proposed as the compliance level for cyanide. For parameters that do not have effluent limitations, the permittee must use methods that can achieve MLs less than or equal to those specified in Table 5 (Permit Part I.E.3.).

8. For purposes of reporting on the Discharge Monitoring Report (DMR) for this permit only, for a single sample, if a value is less than the Method Detection Level (MDL), the permittee must report “less than {numeric value of the MDL}” and if a value is less than the ML, the permittee must report “less than {numeric value of the ML}.” For purposes of calculating monthly averages, zero may be assigned for values less than the MDL, the {numeric value of the MDL} may be assigned for values between the MDL and the ML. If the average value is less than the MDL, the permittee must report “less than {numeric value of the MDL}” and if the average value is less than the ML, the permittee must report “less than {numeric value of the ML}.” If a value is greater than the ML, the permittee must report and use the actual value.

B. Effluent Limitations and Monitoring - Outfall 011
(internal monitoring to outfall 001)

The permittee must limit and monitor discharges from outfall 011 as specified in Table 2, below. Sampling for outfall 011 will occur after the treatment plant and prior to the flow entering the off-river treatment works. All figures represent maximum effluent limits unless otherwise indicated. The permittee must comply with the effluent limits in the table at all times unless otherwise indicated, regardless of the frequency of monitoring or reporting required by other provisions of this permit.

1. Outfall 011 Limitations and Monitoring

| Table 2 - Outfall 011 Effluent Limitations and Monitoring Requirements | | | | | |
|--|-------|----------------------|-----------------|-------------------------|-------------|
| Parameters | Units | Effluent Limitations | | Monitoring Requirements | |
| | | Maximum Daily | Average Monthly | Sample Frequency | Sample Type |
| Aluminum ¹ | ug/L | — | — | quarterly | grab |
| Arsenic ¹ | ug/L | — | — | quarterly | grab |
| Cadmium | ug/L | 100 | 50 | quarterly | grab |
| Chromium, Total | ug/L | — | — | quarterly | grab |
| Copper ¹ | ug/L | 300 | 150 | quarterly | grab |
| Cyanide ³ | ug/L | — | — | weekly | grab |
| Iron ¹ | ug/l | 1639 | 817 | weekly ⁴ | grab |
| Lead ¹ | ug/L | 600 | 300 | quarterly | grab |
| Mercury ² | ug/L | 2 | 1 | quarterly | grab |
| Nickel ¹ | ug/L | — | — | quarterly | grab |
| Selenium ¹ | ug/L | — | — | quarterly | grab |
| Silver ¹ | ug/L | — | — | quarterly | grab |
| Zinc ¹ | ug/L | 1500 | 750 | quarterly | grab |

| Table 2 - Outfall 011 Effluent Limitations and Monitoring Requirements | | | | | |
|--|-------|------------------------|-----------------|-------------------------|-------------|
| Parameters | Units | Effluent Limitations | | Monitoring Requirements | |
| | | Maximum Daily | Average Monthly | Sample Frequency | Sample Type |
| TSS | mg/l | 30 | 20 | weekly | grab |
| TDS | mg/l | — | — | quarterly | grab |
| Sulfates | mg/l | — | — | quarterly | grab |
| Chlorides | mg/L | — | — | quarterly | grab |
| pH | s.u. | see Permit Part I.B.2. | | weekly | grab |
| Outfall flow | gpm | 600 | — | continuous | recording |
| Hardness as CaCO ₃ | mg/l | — | — | weekly | Grab |

Footnotes:
 1 - These parameters must be analyzed and reported as total recoverable.
 2 - Mercury must be analyzed and reported as total.
 3 - Analyzed as weak acid dissociable (WAD) cyanide.
 4 - Sampling frequency may decrease to quarterly after 2 years if EPA and ADEC determine there has been consistent compliance with the permit limitations.

2. The pH must not be less than 6.0 s.u. nor greater than 9.0 s.u.
3. Minimum Levels. For all effluent monitoring, the permittee must use methods (see Permit Part III.C) that can achieve a minimum level (ML) less than the effluent limitation. For parameters that do not have effluent limitations, the permittee must use methods that can achieve MLs less than or equal to those specified in Table 5 (Permit Part I.E.3.).
4. For purposes of reporting on the DMR for this permit only, for a single sample, if a value is less than the MDL, the permittee must report “less than {numeric value of the MDL}” and if a value is less than the ML, the permittee must report “less than {numeric value of the ML}.” For purposes of calculating monthly averages, zero may be assigned for values less than the MDL, the {numeric value of the MDL} may be assigned for values between the MDL and the ML. If the average value is less than the MDL, the permittee must report “less than {numeric value of the MDL}” and if the average value is less than the ML, the permittee must report “less than {numeric value of the ML}.” If a value is greater than the ML, the permittee must report and use the actual value.

C. Effluent Limitations and Monitoring Requirements - Outfall 002

The permittee must limit and monitor discharges from outfall 002 as specified in the Table 3, below. All figures represent maximum effluent limits unless otherwise indicated. The permittee must comply with the effluent limits in the table at all times unless otherwise indicated, regardless of the frequency of

monitoring or reporting required by other provisions of this permit.

1. Outfall 002 Limitations and Monitoring

| Table 3 - Outfall 002 Effluent Limitations and Monitoring Requirements | | | | | | |
|--|----------|------------------------|-----------------|----------------|-------------------------------|-------------|
| Parameter | Units | Effluent Limitations | | | Monitoring Requirements | |
| | | Maximum Daily | Average Monthly | Weekly Average | Sample Frequency ⁴ | Sample Type |
| Flow | gpd | 72,000 | — | — | Daily | Recording |
| Biochemical Oxygen Demand (BOD ₅) | mg/L | 60 | 30 | 45 | Weekly | Grab |
| Influent BOD ₅ | mg/L | See Permit Part I.C.6. | | | Quarterly | Grab |
| Total Suspended Solids (TSS) | mg/L | 60 | 30 | 45 | Weekly | Grab |
| Influent TSS | mg/L | See Permit Part I.C.6. | | | Quarterly | Grab |
| Fecal Coliform ^{1,2} | #/100 ml | 400 | 200 | — | Weekly | Grab |
| Nitrates | mg/L | 160 | 80 | — | Weekly | Grab |
| pH | s.u. | See Permit Part I.C.3. | | | Weekly | Grab |
| Dissolved Oxygen | mg/L | See Permit Part I.C.4. | | | Weekly | Grab |
| Chlorine ³ | mg/L | 0.02 | — | — | Weekly | Grab |

1 - The standard holding time for a fecal coliform sample is 6 hours or 6 hours transport time if the analysis commences within 2 hours of sample receipt at the laboratory.
 2 - Averages are calculated as the geometric mean.
 3 - Monitoring required only if chlorine is used. See Permit Part I.C.5., below.
 4 - After consultation with EPA and ADEC, the sampling frequency may decrease to monthly if this discharge has been in full compliance with the permit limitations in Permit Part I.C. for 6 consecutive months.

2. The permittee must not discharge any floating solids, visible foam in other than trace amounts, or oily wastes that produce a sheen on the surface of the receiving water. Daily visual monitoring is required.
3. The pH must not be less than 6.0 standard units (s.u.) nor greater than 9.0 standard units (s.u.).
4. Dissolved Oxygen (DO) must be greater than 2 mg/L.
5. If chlorine (Cl) is used for disinfection, the compliance evaluation level will be 0.1 mg/L as a daily maximum. The effluent limit for chlorine is not quantifiable using EPA approved analytical methods. The ML for EPA Methods 330.3 and 330.4 is 0.1 mg/L and is used as the compliance evaluation level for this parameter.
6. Influent (prior to treatment) measures of BOD₅ and TSS shall be done on a quarterly basis. From this information, percent removal shall be calculated

and reported on the DMR in January, April, July, and October for the previous quarter. Percent removal shall meet or exceed 85% for both parameters. The minimum and the average shall be reported.

7. The permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
8. For purposes of reporting on the DMR for this permit only, for a single sample, if a value is less than the MDL, the permittee must report "less than {numeric value of the MDL}" and if a value is less than the ML, the permittee must report "less than {numeric value of the ML}." For purposes of calculating monthly averages, zero may be assigned for values less than the MDL, the {numeric value of the MDL} may be assigned for values between the MDL and the ML. If the average value is less than the MDL, the permittee must report "less than {numeric value of the MDL}" and if the average value is less than the ML, the permittee must report "less than {numeric value of the ML}." If a value is greater than the ML, the permittee must report and use the actual value.
9. Signs must be placed on the riverbanks near the mixing zone and outfall line. The signs must provide the identity and telephone numbers of the discharger; must inform the public that a mixing zone exists, that treated and disinfected wastewater is being discharged and that users of the area should exercise caution.

D. Whole Effluent Toxicity Testing (WET) Requirements. The permittee must conduct chronic toxicity tests on effluent samples from outfall 001. Testing must be conducted in accordance with subsections 1 through 8, below.

1. Toxicity testing must be conducted on grab sample of effluent. In addition, a split of each sample collected must be analyzed for the chemical and physical parameters required in Permit Part 1.A above. The grab sample for toxicity testing should be of adequate size to accommodate the split sample. When the timing of sample collection coincides with that of the sampling required in Permit Part I.A, analysis of the split sample will fulfill the requirements of Permit Part I.A. as well.
2. Chronic Test Species and Methods
 - a. For Outfall 001, chronic tests must be conducted annually prior to August 1. The effluent collected for toxicity testing must be collected at the same time as the receiving water surface water monitoring (see Permit Part I.E.).
 - b. The permittee must conduct short-term tests with the water flea, *Ceriodaphnia dubia* (survival and reproduction test), and the fathead minnow, *Pimephales promelas* (larval survival and growth test), for the first two suites of tests. After this screening period, monitoring shall be

conducted using the most sensitive species. If no toxicity is observed in either species, testing shall be conducted on the fathead minnow.

- c. The presence of chronic toxicity must be determined as specified in *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA/821-R-02-013, October 2002.
 - d. Results must be reported in TU_c (chronic toxic units), where $TU_c = 100/IC_{25}$. See Permit Part VI. for a definition of IC_{25} .
3. Toxicity Triggers. Since data does not exist to support the development of a WET limit at this time, a target level for chronic toxicity of 2 TU_c shall apply for the purposes of determining compliance with paragraphs I.D.5. and I.D.6.
 4. Quality Assurance
 - a. The toxicity testing on each organism must include a series of five test dilutions (100%, 75%, 50%, 25%, and 12.5%) and a control.
 - b. All quality assurance criteria and statistical analyses used for chronic tests and reference toxicant tests must be in accordance with *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA/821-R-02-013, October 2002, and individual test protocols.
 - c. In addition to those quality assurance measures specified in the methodology, the following quality assurance procedures must be followed:
 - i) If organisms are not cultured in-house, concurrent testing with reference toxicants must be conducted. If organisms are cultured in-house, monthly reference toxicant testing is sufficient. Reference toxicant tests must be conducted using the same test conditions as the effluent toxicity tests.
 - ii) If either of the reference toxicant tests or the effluent tests do not meet all test acceptability criteria as specified in the test methods manual, the permittee must re-sample and re-test within 14 days of receipt of the test results.
 - iii) Control and dilution water must be receiving water or lab water, as appropriate, as described in the manual. If the dilution water used is different from the culture water, a second control, using culture water must also be used. Receiving water may be used as control and dilution water upon notification of EPA and ADEC. In no case shall water that has not met test acceptability criteria be used for either dilution or control.

5. Accelerated Testing.
 - a. Initial Investigation. If the permittee demonstrates through an evaluation of facility operations that the cause of the exceedence is known and corrective actions have been implemented, only one accelerated test is necessary and the permittee would return to normal WET testing frequency. If toxicity exceeding the trigger is detected in this test, then the TRE requirements in Permit Part I.D.6. shall apply, or
 - b. If chronic toxicity is detected above the triggers specified in paragraph I.D.3. and no initial investigation is conducted or no cause is found then the permittee must conduct four more biweekly tests over an eight week period. This accelerated testing must be initiated within two weeks of receipt of the test results that indicate an exceedence.
 - c. The permittee must notify EPA and ADEC of the exceedence in writing within two weeks of receipt of the test results. The notification must include the following information:
 - i) A status report on any actions required by the permit, with a schedule for actions not yet completed.
 - ii) A description of any additional actions the permittee has taken or will take to investigate and correct the cause(s) of the toxicity.
 - iii) Where no actions have been taken, a discussion of the reasons for no taking action.
 - d. If none of the four accelerated tests exceed the toxicity trigger, the permittee may return to the normal testing frequency. If any of the four tests exceed the trigger, then the TRE requirements in Permit Part I.D.6., shall apply.
6. Toxicity Reduction Evaluation (TRE) and Toxicity Identification Evaluation (TIE):
 - a. If chronic toxicity triggers are exceeded during accelerated testing under Permit Part I.D.5., the permittee must initiate a toxicity reduction evaluation (TRE) in accordance with *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations* (EPA/600/2-88/070) within two weeks of the receipt of the test results showing an exceedence. At a minimum, the TRE must include:
 - i) Further actions to investigate and identify the cause of toxicity;
 - ii) Actions the permittee will take to mitigate the impact of the discharge and to prevent the recurrence of toxicity; and
 - iii) A schedule for these actions.
 - b. If a TRE is initiated prior to completion of the accelerated testing, the accelerated testing schedule may be terminated, or used as necessary

in performing the TRE.

- c. The permittee may initiate a Toxicity Identification Evaluation (TIE) as part of the TRE process. Any TIE must be performed in accordance with EPA guidance manuals, *Toxicity Identification Evaluation; Characterization of Chronically Toxic Effluents, Phase I* (EPA/600/6-91/005F), *Methods for Aquatic Toxicity Identification Evaluations, Phase II: Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/080), and *Methods for Aquatic Toxicity Identification Evaluations, Phase III: Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA-600/R-92/081).

7. Reporting

- a. The permittee must confirm on the DMR for the month of September that the toxicity test was conducted and whether any toxicity was found. The full toxicity test results will be included in the annual report due March 1 of the following year, as required in Permit Part I.E.7.
- b. The permittee must submit the results of any accelerated testing, under Permit Part I.D.5., within 2 weeks of receipt of the results from the lab. The full report must be submitted within 4 weeks of receipt of the results from the lab. If an initial investigation indicates the source of toxicity and accelerated testing is unnecessary, the result of the investigation must be submitted with the DMR for the month following completion of the investigation.
- c. The report of toxicity test results must include all relevant information outlined in Section 10, Report Preparation, of *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA/821-R-02-013, October 2002. In addition to toxicity test results, the permittee must report: dates of sample collection and initiation of each test; the toxicity triggers as defined in paragraph I.D.3.; flow rate at the time of sample collection; and the results of the monitoring required in Permit Part I.A.

E. Surface Water Monitoring. The permittee must perform the following receiving water monitoring program to monitor changes that may occur as a result of activities associated with the discharges from the facility.

1. The permittee must conduct surface water monitoring at the following monitoring stations:

Goodpaster monitoring stations SW-1, SW-15, SW-41, and SW-42.

During the following times:

(a) Late February to mid-March; (b) mid-May; (c) mid-June; (d) early August; (e) late-September; and (f) during the month of December.

2. All ambient samples must be grab samples.
3. All samples must be analyzed for the parameters listed in Table 4, below, to achieve minimum levels (MLs) that are equivalent to or less than those listed in Table 5, below, or the effluent limitations of the limited parameters in Tables 1 or 2.

| Table 4 Surface Water Monitoring Parameters¹ | | |
|--|-----------------------|------------------------|
| pH | TSS | Iron ⁴ |
| DO | Hardness | Lead |
| Conductivity | Alkalinity | Copper |
| Temperature | Cyanide, WAD | Manganese ⁴ |
| Turbidity | Aluminum ² | Mercury |
| Chlorides | Antimony ³ | Nickel |
| Nitrates | Arsenic | Selenium ² |
| Sulfates | Cadmium | Silver |
| TDS | Chromium | Zinc |

1 - Freshwater criteria for metals are expressed in terms of the dissolved metal in the water column unless noted in other footnotes.

2 – These values (Al and Se) are expressed in terms of total recoverable metal in the water column as expressly stated in the 2008 Toxics Manual included as part of the WQS.

3 – This value should be expressed as total because the most stringent value for antimony is the drinking water MCL which are analyzed as total.

4 - These values (Fe and Mn) are expressed in terms of total recoverable metal in the water column. Neither the WQS nor EPA's 1999 Recommended Criteria explicitly state the type of analysis to be used. In 1999, EPA was recommending for the first time that dissolved be used over total recoverable and changes were noted for each parameter. Therefore, the lack of a specification implies that if a parameter was not noted, the type of analysis remained total recoverable.

| Table 5: MLs | | |
|---------------------|-------|--------------------|
| Parameter | Units | Minimum Level (ML) |
| Aluminum | ug/L | 50 |
| Antimony | ug/L | 3 |
| Arsenic | ug/L | 5 |
| Chromium, Total | ug/L | 10 |
| Selenium | ug/L | 1.9 |
| Silver | ug/L | 0.3 |

The permittee may request different MLs. Such a request must be in writing and must be approved by EPA and ADEC.

4. Quality assurance/quality control plans for all the monitoring must be documented in the Quality Assurance Plan required under Permit Part I.F., "Quality Assurance Plan".
5. The permittee shall collect and analyze individually with whole body analyses a minimum of 10 juvenile chinook salmon in late fall prior to freezeup. The permittee shall analyze and record the concentrations of arsenic, antimony, cadmium, copper, lead, nickel, selenium, silver, and mercury. Samples of 10 juvenile chinook salmon per site should be collected at Stations SW01 and SW12 (corresponds to the baseline sampling effort). This report, including electronic copies of the raw data from each sample, shall be submitted with the Annual Water Quality Monitoring Summary Report as described below in subpart 6.
6. All monitoring results for a year must be included in an Annual Water Quality Monitoring Summary Report and submitted by March 1 of the following year. The report must include a presentation of the analytical results and an evaluation of the results. The evaluation must include an electronic spreadsheet containing all historical data for both water quality and whole body analysis, a graphical presentation of the data at each monitoring station, a comparison of upstream and downstream monitoring results (to show any differences) and a comparison of monitoring results for each station over time (to show any trends). The Annual Report may reference the monthly reports for QA/QC information.

All monitoring results for a calendar year shall be reported in the Annual Water Quality Monitoring Summary report. At a minimum, the report must include the following:

- a. Dates of sample collection and analyses.
- b. Results of sample analysis.
- c. Relevant quality assurance/quality control (QA/QC) information.

F. Quality Assurance Plan (QAP). The permittee must develop a quality assurance plan (QAP) for all monitoring required by this permit. The QAP may be contained in an overall monitoring plan for the entire project. The QAP, or the QAP portion of an overall monitoring plan, must be reviewed and notice submitted to EPA and ADEC within 60 days of the effective date of this permit and be made available upon request. Any changes made to the existing QAP shall be completed according to subpart 3, below.

1. The QAP must be designed to assist in planning for the collection and analysis of effluent and receiving water samples in support of the permit and in explaining data anomalies 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 the most recent editions of *Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). The QAP must be prepared in the format which is specified in these documents.
3. The permittee must amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP.
4. Copies of the QAP must be kept on site and made available to EPA and/or ADEC upon request.

II. BEST MANAGEMENT PRACTICES PLAN

- A. **Purpose.** Through implementation of the best management practices (BMP) plan the permittee must prevent or minimize the generation and the potential for the release of pollutants from the facility to the waters of the United States through normal and ancillary activities.
- B. **Development and Implementation Schedule.** The permittee must develop and implement a BMP Plan which achieves the objectives and the specific requirements listed below. The BMP Plan must be reevaluated within 60 days of the effective date of the permit and the permittee must send notice to EPA and ADEC that this has been completed. If any changes are made through this evaluation, the permittee shall follow the procedures in Permit Part II.F., below. The BMP Plan may be included as part of a project wide document or the BMP Plan may reference other such documents.
- C. **Objectives.** The permittee must develop and amend the BMP Plan consistent with the following objectives for the control of pollutants.
 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 waste stream in the most appropriate manner.
 2. Under the BMP Plan and any Standard Operating Procedures included in the BMP Plan, the permittee must ensure proper operation and maintenance of water management and wastewater treatment systems. BMP Plan elements must be developed in accordance with good engineering practices.
 3. Each facility component or system must be examined for its waste minimization opportunities and its potential for causing a release of significant amounts of pollutants to waters of the United States due to equipment failure, improper operation, natural phenomena such as rain or

snowfall, etc. The examination must include all normal operations and ancillary activities including material storage areas, storm water, in-plant transfer, material handling and process handling areas, loading or unloading operations, spillage or leaks, sludge and waste disposal, or drainage from raw material storage.

D. Elements of the BMP Plan. The BMP Plan should be consistent with the objectives above 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. The BMP Plan must include, at a minimum, the following items:

1. Plan Components.

- a. Statement of BMP policy. The BMP Plan must include a statement of management commitment to provide the necessary financial, staff, equipment, and training resources to develop and implement the BMP Plan on a continuing basis.
- b. Structure, functions, and procedures of the BMP Committee. The BMP Plan must establish a BMP Committee responsible for developing, implementing, and maintaining the BMP Plan.
- c. Description of potential pollutant sources.
- d. Risk identification and assessment.
- e. Standard operating procedures to achieve the above objectives and specific best management practices (see below) and
- f. Reporting of BMP incidents. The reports must include a description of the circumstances leading to the incident, corrective actions taken and recommended changes to operating and maintenance practices to prevent recurrence.
- g. Materials compatibility.
- h. Good housekeeping.
- i. Inspections.
- j. Preventative maintenance and repair.
- k. Security
- l. Employee training.
- m. Recordkeeping and reporting.
- n. Prior evaluation of any planned modifications to the facility to ensure that the requirements of the BMP plan are considered as part of the modifications.
- o. Final constructed site plans, drawings and maps (including detailed

storm water outfall/culvert configurations).

2. **Specific Best Management Practices.** The BMP Plan must establish specific BMPs or other measures to achieve the objectives under Permit Part II.C. and which ensure that the following specific requirements are met:
 - a. Solids, sludges, or other pollutants removed in the course of treatment or control of water and wastewaters must be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.
 - b. Ensure proper management of solid and hazardous waste in accordance with regulations promulgated under the Resource Conservation and Recovery Act (RCRA). Management practices required under RCRA regulations must be referenced in the BMP Plan.
 - c. Ensure proper management of materials in accordance with Spill Prevention, Control, and Countermeasure (SPCC) plans under Section 311 of the Act and 40 CFR Part 112. The BMP Plan may incorporate any part of such plans into the BMP Plan by reference.
3. **Review and Certification.** The BMP Plan must be reviewed and certified as follows:

Annual review by the plant manager and BMP Committee: Certified statement that the above reviews have been completed and that the BMP Plan fulfills the requirements set forth in this permit. The statement must be certified by the dated signatures of each BMP Committee member. The statement must be submitted to EPA and ADEC on or before January 31st of each year of operation.

E. Documentation. The permittee must maintain a copy of the BMP Plan at the facility and make it available to EPA, ADEC or an authorized representative upon request.

F. BMP Plan Modification.

1. The permittee must amend the BMP Plan whenever there is a change in the facility or in the operation of the facility which materially increases the generation of pollutants or their release or potential release to surface waters.
2. The permittee must amend the BMP Plan whenever it is found to be ineffective in achieving the general objective of preventing and minimizing the generation and the potential for the release of pollutants from the facility to the waters of the United States and/or the specific requirements above.
3. Any changes to the BMP Plan must be consistent with the objectives and specific requirements listed above. All changes in the BMP Plan must be

reported to EPA and ADEC with the annual certification required under Permit Part D.3., above.

III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Representative Sampling (Routine and Non-Routine Discharges).

Samples and measurements must be representative of the volume and nature of the monitored discharge.

In order 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 limited in Permit Part I.A. of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with paragraph III.C ("Monitoring Procedures"). The permittee must report all additional monitoring in accordance with paragraph III.D ("Additional Monitoring by Permittee").

B. Reporting of Monitoring Results.

The permittee must summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent. The permittee must submit reports monthly, postmarked by the 20th day of the following month. The permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Permit Part V.E. of this permit ("Signatory Requirements"). The permittee must submit the legible originals of these documents to the Director, Office of Water & Watersheds, with copies to ADEC at the following addresses:

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue Suite 900, OCE-133
Seattle, Washington 98101

ADEC
Division of Water
610 University Avenue
Fairbanks, Alaska 99709

After Phase 3 of the NPDES Authorization scheduled for October 31, 2010, the permittee is required to send DMRs and other required reports only to ADEC.

C. Monitoring Procedures.

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

specified in this permit. EPA Method 200.8 for metals, Standard Method 4500 CN I for WAD cyanide, and EPA Method 300.0 for anions have been approved for use in this permit.

- D. Additional Monitoring by Permittee.** If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the permittee must include the results of this monitoring in the calculation and reporting of the data submitted in the DMR.
- E. Records Contents.** Records of monitoring information must include:
1. the date, exact place, and time of sampling or measurements;
 2. the individual(s) who performed the sampling or measurements;
 3. the date(s) analyses were performed;
 4. the individual(s) who performed the analyses;
 5. the analytical techniques or methods used; and
 6. the results of such analyses.
- 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 the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Director or ADEC at any time.
- G. Twenty-four Hour Notice of Noncompliance Reporting**
1. The permittee must report the following occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances:
 - a. any noncompliance that may endanger health or the environment;
 - b. any unanticipated bypass that exceeds any effluent limitation in the permit (See Permit Part IV.F., "Bypass of Treatment Facilities");
 - c. any upset that exceeds any effluent limitation in the permit (See Permit Part IV.G., "Upset Conditions"); or
 - d. any violation of a maximum daily discharge limitation for any of the pollutants in Table 1 of Permit Part I.A.
 2. The permittee must also provide a written submission within five days of the time that the permittee becomes aware of any event required to be reported under subpart 1 above. The 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 may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Hotline in Seattle, Washington, by telephone, (206) 553-1846.
 4. Reports must be submitted to the addresses in Permit 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 Permit Part III.B ("Reporting of Monitoring Results") are submitted. The reports must contain the information listed in Permit Part III.G.2 of this permit ("Twenty-four Hour Notice of Noncompliance Reporting").

I. Changes in Discharge of Toxic Substances. The permittee must notify the Director and ADEC 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 may reasonably be expected to exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 ug/L);
 - b. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/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 the Director in accordance with 40 CFR 122.44(f).
2. That any activity has occurred or will occur that would result in any discharge, on a non-routine or infrequent basis, of any toxic pollutant that is

not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following "notification levels":

- a. Five hundred micrograms per liter (500 ug/L);
- b. One 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 the Director in accordance with 40 CFR 122.44(f).

- J. Compliance Schedules.** Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.

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 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 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) which are installed or used by the permittee to achieve compliance with the conditions of this 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 which are installed by the permittee only when the operation is 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 paragraphs 2 and 3 of this Permit Part.

2. Notice.
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it must submit prior notice, 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 Permit Part III.G ("Twenty-four Hour Notice of Noncompliance Reporting").
3. Prohibition of bypass.
 - a. Bypass is prohibited, and the Director 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 paragraph 2 of this Permit Part.
 - b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 3.a. of this Permit Part.

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 paragraph 2 of this Permit Part. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is 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 permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under Permit Part III.G, "Twenty-four Hour Notice of Noncompliance Reporting;" and
 - d. The permittee complied with any remedial measures required under Permit 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 requirement.

I. Planned Changes. The permittee must give notice to the Director and ADEC as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); 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 subject neither to effluent limitations in the permit, nor to notification requirements under Permit Part III.I ("Changes in Discharge of Toxic Substances").

J. Anticipated Noncompliance. The permittee must give advance notice to the Director and ADEC 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 Regional Administrator, 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 the Director and ADEC, within the time specified in the request, any information that the Director or ADEC 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 ADEC, 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 the Director or ADEC, it must promptly submit the omitted facts or corrected information.
- E. Signatory Requirements.** All applications, reports or information submitted to the Director and ADEC 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 Director or ADEC 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 Director and ADEC.
3. Changes to authorization. If an authorization under Permit 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 Permit Part V.E.2. must be submitted to the Director and ADEC 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 Permit 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 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 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, ADEC, 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
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. 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

1. "Act" means the Clean Water Act.
2. "ADEC" means Alaska Department of Environmental Conservation.
3. "Administrator" means the Administrator of the EPA, or an authorized representative.
4. "Average monthly discharge limitation" 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.
5. "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 areas.

6. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
7. "Chronic toxic unit" ("TU_c") is a measure of chronic toxicity. The number of chronic toxic units in the effluent is calculated as $100/IC_{25}$ where the IC_{25} is measured in percent effluent.
8. "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.
9. "Director" means the Director of the Office of Water & Watersheds, EPA, or an authorized representative.
10. "DMR" means discharge monitoring report.
11. "EPA" means the United States Environmental Protection Agency.
12. "Grab" sample is an individual sample collected over a period of time not exceeding 15 minutes.
13. "Inhibition concentration", IC, is a point estimate of the toxicant concentration that causes a given percent reduction (p) in a non-quantal biological measurement (e.g., reproduction or growth) calculated from a continuous model (e.g., Interpolation Method).
14. "Maximum daily discharge limitation" means the highest allowable "daily discharge."
15. "Method Detection Limit (MDL)" means the minimum concentration of a substance (analyte) that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.
16. "Minimum Level (ML)" means the concentration at which the entire analytical system must give a recognizable signal and an acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming

that all the method-specified sample weights, volumes and processing steps have been followed.

17. "QA/QC" means quality assurance/quality control.
18. "Regional Administrator" means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.
19. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
20. "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.