

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”,

**Hecla Mining Company
 Grouse Creek Unit
 P.O. Box 647
 Challis, ID 83226**

is authorized to discharge from the Grouse Creek Mine facility at the following location(s):

Outfall	Receiving Water	Latitude	Longitude
002	Jordan Creek	44° 25’ 19”	114° 43’ 53”
003	Yankee Fork Creek	44° 23’ 01”	114° 43’ 22”

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

This permit shall become effective

This permit and the authorization to discharge shall expire at midnight,

The permittee shall reapply for a permit reissuance on or before 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 Permit

Daniel D. Opalski, Director
 Office of Water and Watersheds

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Schedule of Submissions

The following is a summary of some of the items the permittee must complete and/or submit to EPA during the term of this permit:

Item	Due Date
1. Discharge Monitoring Reports (DMR)	DMRs are due monthly and must be postmarked on or before the 20 th day of the month following the monitoring month (see III.B).
2. Quality Assurance Plan (QAP)	The permittee must provide EPA and IDEQ with written notification that the Plan has been developed and implemented within 90 days after the effective date of the final permit (see II.A). The Plan must be kept on site and made available to EPA and IDEQ upon request.
3. Best Management Practices (BMP) Plan	The permittee must provide EPA and IDEQ with written notification that the Plan has been developed and implemented within 180 days after the effective date of the final permit (see II.B). The Plan must be kept on site and made available to EPA and IDEQ upon request. In addition, the permittee must submit a certified statement that annual review of the BMP plan has been completed by January 20 th of each year (see II.C.5).
4. NPDES Application Renewal	The application must be submitted at least 180 days before the expiration date of the permit (see V.B).
5. Surface Water Monitoring	In addition to reporting surface water monitoring results on DMRs, the permittee must submit all surface water monitoring results for the previous calendar year for all parameters in an annual report to EPA and IDEQ by January 31st of the following year and with the application (see Parts I.D.9 and V.B).
6. Twenty-Four Hour Notice of Noncompliance Reporting	The permittee must report certain occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances. (See III.G. and I.B.3).

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I. Limitations and Monitoring Requirements

A. Discharge Authorization

During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfalls specified herein to Jordan Creek and Yankee Fork Creek, 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.

B. Effluent Limitations and Monitoring

- The permittee must limit and monitor discharges from outfalls 002 and 003 as specified in Tables 1 and 2, 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.

Table 1 - Outfall 002 Effluent Limitations and Monitoring Requirements						
Parameter and Units	Effluent Limitations				Monitoring Requirements	
	Average Monthly Jordan Creek Flow < 30 CFS		Average Monthly Jordan Creek Flow ≥ 30 CFS		Sample Frequency	Sample Type
	Average Monthly Limit	Maximum Daily Limit	Average Monthly Limit	Maximum Daily Limit		
Effluent Flow, CFS	—	2.01	—	2.01	Continuous	Recording
Jordan Creek Flow ¹	Monitor and report				Daily	Recording
Cadmium, total recoverable (TR), µg/L ²	1.44	2.72	1.70	3.22	Monthly	Grab
Copper, TR, µg/L ²	18.6	41.9	15.7	35.3	Twice per Month	Grab
Cyanide, weak acid dissociable (WAD), µg/L ²	7.47	21.3	Monitor and report		Twice per Month	Grab
Dilution Ratio ³	8:1 (minimum)		8:1 (minimum)		Daily	Calculated
Lead, TR, µg/L ²	1.80	4.84	1.25	3.38	Monthly	Grab
Mercury, Total, µg/L ²	0.0222	0.057	0.034	0.087	Monthly	Grab
Floating, suspended or submerged matter	See I.B.4.				Monthly	Visual
pH, Standard Units	6.5 – 9.0 at all times				Daily	Grab
Total Suspended Solids (TSS), mg/L	20	30	20	30	Twice per Month	Grab
Zinc, TR ²	141	304	119	256	Twice per Month	Grab
Whole Effluent Toxicity, Chronic, TU _c ²	5.93	16.6	10.5	29.5	Monthly	24-hour composite
Aluminum, TR	Monitor and report				Monthly	Grab
Ammonia, Total as N, mg/L	Monitor and report				Quarterly	Grab
Arsenic, µg/L	Monitor and report				Quarterly	Grab
Hardness, as CaCO ₃ , mg/L	Monitor and report				Monthly	Grab
Nitrate + Nitrite, as N, mg/L	Monitor and report				Quarterly	Grab
Selenium, TR, µg/L	Monitor and Report				Quarterly	Grab

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Table 1 - Outfall 002 Effluent Limitations and Monitoring Requirements						
Parameter and Units	Effluent Limitations				Monitoring Requirements	
	Average Monthly Jordan Creek Flow < 30 CFS		Average Monthly Jordan Creek Flow ≥ 30 CFS		Sample Frequency	Sample Type
	Average Monthly Limit	Maximum Daily Limit	Average Monthly Limit	Maximum Daily Limit		
Silver, µg/L	Monitor and report				Quarterly	Grab
Temperature, °C	Monitor and report				Weekly	Grab
WET, Acute, TU _a	Monitor and report				Annual	24-hour composite
Notes:						
1. Flow in Jordan Creek must be monitored at a location upstream of Outfall 002.						
2. 24-hour reporting is required in case of a maximum daily limit violation. See I.B.3 and III.G.						
3. See I.B.2.						

Table 2 - Outfall 003 Effluent Limitations and Monitoring Requirements								
Parameter and Units	Effluent Limitations						Monitoring Requirements	
	Average Monthly Yankee Fork Creek Flow < 15 CFS		Average Monthly Yankee Fork Creek Flow ≥ 15 and < 45 CFS		Average Monthly Yankee Fork Creek Flow ≥ 45 CFS		Sample Frequency	Sample Type
	Average Monthly Limit	Maximum Daily Limit	Average Monthly Limit	Maximum Daily Limit	Average Monthly Limit	Maximum Daily Limit		
Effluent Flow, CFS	—	0.668	—	1.11	—	2.01	Continuous	Recording
Yankee Fork Creek Flow, CFS	Monitor and report						Daily	Recording
Cadmium, TR, µg/L ¹	2.22	4.08	2.50	4.59	2.96	5.42	Monthly	Grab
Copper, TR, µg/L ¹	21.6	39.8	21.8	40.3	20.8	38.5	Twice per Month	Grab
Lead, TR, µg/L ¹	1.40	4.84	0.75	2.60	0.96	3.32	Monthly	Grab
Mercury, Total, µg/L ¹	0.026	0.053	0.025	0.050	0.035	0.069	Twice per Month	Grab
Floating, suspended or submerged matter	See I.B.4.						Monthly	Visual
pH, Standard Units	6.5 – 9.0 at all times						Daily	Grab
Total Suspended Solids (TSS), mg/L	20	30	20	30	20	30	Twice per Month	Grab
Zinc, TR ¹	158	344	147	319	167	364	Weekly	Grab
Aluminum, TR	Monitor and report						Monthly	Grab
Ammonia, Total as N, mg/L	Monitor and report						Quarterly	Grab
Arsenic, µg/L	Monitor and report						Quarterly	Grab

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Table 2 - Outfall 003 Effluent Limitations and Monitoring Requirements								
Parameter and Units	Effluent Limitations						Monitoring Requirements	
	Average Monthly Yankee Fork Creek Flow < 15 CFS		Average Monthly Yankee Fork Creek Flow \geq 15 and < 45 CFS		Average Monthly Yankee Fork Creek Flow \geq 45 CFS		Sample Frequency	Sample Type
	Average Monthly Limit	Maximum Daily Limit	Average Monthly Limit	Maximum Daily Limit	Average Monthly Limit	Maximum Daily Limit		
Cyanide, Weak Acid Dissociable, $\mu\text{g/L}$	Monitor and report						Monthly	Grab
Hardness, as CaCO_3 , mg/L	Monitor and report						Monthly	Grab
Nitrate + Nitrite, as N, mg/L	Monitor and report						Quarterly	Grab
Selenium, TR, $\mu\text{g/L}$	Monitor and report						Quarterly	Grab
Silver	Monitor and report						Quarterly	Grab
Temperature	Monitor and report						Weekly	Grab
WET, Acute, TU_a	Monitor and report						Annual	24-hour Composite
WET, Chronic, TU_c	Monitor and report						Monthly	24-hour Composite
Notes:								
1. 24-hour reporting is required in case of a maximum daily limit violation. See I.B.3 and III.G.								

2. The dilution ratio must be calculated each day by dividing the daily Jordan Creek flow upstream of the outfall (in CFS) by the maximum daily effluent flow (in CFS). The permittee must report the minimum dilution ratio on the monthly DMR. The permittee must report the number and duration of excursions below the dilution ratio limit during the month on the DMR for each month.
3. The permittee must report within 24 hours any violation of the maximum daily limits for the following pollutants: Cadmium, copper, cyanide, lead, mercury, zinc, and chronic whole effluent toxicity. Violations of all other effluent limits are to be reported at the time that discharge monitoring reports are submitted (See III.B. and III.H.).
4. The permittee must not discharge floating, suspended, or submerged matter of any kind in amounts causing nuisance or objectionable conditions or that may impair designated beneficial uses of the receiving waters.
5. The permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
6. For all effluent monitoring, the permittee must use a sufficiently sensitive analytical methods which meet the following:
 - a) Parameters with an effluent limit: The method must achieve a minimum level (ML) less than the effluent limitation unless otherwise specified in Tables 1 or 2.
 - b) Parameters that do not have an effluent limit:

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- (i) The permittee must use a method that detects and quantifies the level of the pollutant, or
 - (ii) The permittee must use a method that can achieve a maximum ML less than or equal to those specified in Appendix A. Minimum Levels.
- c) For parameters that do not have an effluent limit, the permittee may request different MLs. The request must be in writing and must be approved by EPA.
 - d) See also Part III.C Monitoring Procedures.
7. For purposes of reporting on the DMR 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}.”
 8. For purposes of calculating monthly averages, zero may be assigned for values less than the MDL, and 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 equal to or greater than the ML, the permittee must report and use the actual value.
 9. For information on calculating, averaging, and reporting concentrations, see the NPDES Self-Monitoring System User Guide (EPA 833-B-85-100, March 1985).

C. Whole Effluent Toxicity Testing Requirements

The permittee must conduct acute and chronic toxicity tests on effluent samples from outfalls 002 and 003. Testing must be conducted in accordance with subsections 1 through 7, below.

1. Toxicity testing must be conducted on 24-hour composite samples of effluent. In addition, a split of each sample collected must be analyzed for the chemical and physical parameters required in Part 1.B, above, with a required effluent sampling frequency of once per month or more frequently, using the sample type required in Part I.B. For parameters for which grab samples are required in Part I.B, grab samples must be taken during the same 24-hour period as the 24-hour composite sample used for the toxicity tests. When the timing of sample collection coincides with that of the sampling required in Part I.B, analysis of the split sample will fulfill the requirements of Part I.B as well.
2. Acute Test Species and Methods
 - a) Acute tests must be conducted once per year.
 - b) The permittee must conduct 96-hour static renewal tests with the rainbow trout (*Oncorhynchus mykiss*).
 - c) The presence of acute toxicity must be determined as specified in *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, Fifth Edition, EPA/821-R-02-012, October 2002 or the most recent revision of this document.

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- d) Acute toxicity test results must be reported in TU_a (acute toxic units), where $TU_a = 100/LC_{50}$ (in percent effluent). See Part VI. for a definition of LC_{50} .

3. Chronic Test Species and Methods

- a) For outfalls 002 and 003 chronic tests must be conducted monthly.
- b) The permittee must conduct short-term tests with the water flea, *Ceriodaphnia dubia* (survival and reproduction test), the fathead minnow, *Pimephales promelas* (larval survival and growth test), and a green alga, *Selenastrum capricornutum* (growth test) for the first three suites of tests. After this screening period, monitoring must be conducted using the most sensitive species, which is defined below.
- (i) The most sensitive species is the species which, during the screening period, produces the greatest maximum toxicity result in chronic toxic units (TU_c), which is defined in Part I.D.2.d, below.
 - (ii) If all three species produce the identical maximum toxicity result (including no toxicity in 100% effluent) the permittee must use *Ceriodaphnia dubia* for subsequent tests.
 - (iii) If two species produce the identical maximum toxicity result, which is greater than 1.0 TU_c and also greater than the maximum toxicity result of the third species, the permittee may use either of the two species producing the greater maximum toxicity result for subsequent tests.
- 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 or the most recent revision of this document.
- d) Results must be reported in TU_c (chronic toxic units), which is defined as follows
- (i) For survival endpoints, $TU_c = 100/NOEC$.
 - (ii) For all other test endpoints, $TU_c = 100/IC_{25}$.
 - (iii) IC_{25} means “25% inhibition concentration.” The IC_{25} is a point estimate of the toxicant concentration, expressed in percent effluent, that causes a 25% reduction in a non-quantal biological measurement (e.g., reproduction or growth) calculated from a continuous model (e.g., Interpolation Method).
 - (iv) $NOEC$ means “no observed effect concentration.” The $NOEC$ is the highest concentration of toxicant, expressed in percent effluent, to which organisms are exposed in a chronic toxicity test [full life-cycle or partial life-cycle (short term) test], that causes no observable adverse effects on the test organisms (i.e., the highest concentration of effluent in which the values for the observed responses are not statistically significantly different from the controls).

4. Quality Assurance

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- a) The toxicity testing on each organism must include a series of five test dilutions and a control as follows:
- (i) The acute series must range from 0% to 100% effluent.
 - (ii) The chronic series must include the receiving water concentration (RWC), which is the dilution associated with the average monthly limit for chronic toxicity, two dilutions above the RWC, and two dilutions below the RWC. The RWCs for each outfall and flow tier are provided in Table 3, below.

Table 3: Receiving Water Concentrations for Chronic Whole Effluent Toxicity Testing	
Conditions	RWC (% effluent)
Outfall 002	
Jordan Creek flow < 30 CFS	51%
Jordan Creek flow ≥ 30 CFS	32%
Outfall 003	
Yankee Fork Creek flow < 15 CFS	19%
Yankee Fork Creek flow 15 – 45 CFS	20%
Yankee Fork Creek flow > 45 CFS	13%

- b) All quality assurance criteria and statistical analyses used for acute tests and reference toxicant tests must be in accordance with *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, Fifth Edition, EPA/821-R-02-012, October 2002 and the individual test protocol. 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 IDEQ. In no case shall

water that has not met test acceptability criteria be used for either dilution or control.

5. Accelerated Testing.

- a) If chronic toxicity is detected in the effluent from outfall 002 above the average monthly effluent limit in Table 1, or if chronic toxicity is detected in the effluent from outfall 003 above the values in Table 4, the permittee must conduct four more biweekly tests over an eight week period (see also Part C.5.d, below). This accelerated testing must be initiated within two weeks of receipt of the test results that indicate an exceedence.

Conditions	Trigger (TU_c)
Yankee Fork Creek flow < 15 CFS	5.2
Yankee Fork Creek flow 15 – 45 CFS	5.0
Yankee Fork Creek flow > 45 CFS	7.7

- b) The permittee must notify EPA 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 not taking action.
- c) If none of the four accelerated tests exceed the average monthly effluent limits in Table 1 (for outfall 002) or the accelerated testing triggers in Table 4 (for outfall 003), the permittee may return to the normal testing frequency. If any of the four tests exceed the average monthly effluent limits or accelerated testing triggers (as appropriate), then the TRE requirements in Part I.B.6, shall apply.
- d) 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. If toxicity exceeding the trigger is detected in this test, then the TRE requirements in Part I.C.6 shall apply.
6. Toxicity Reduction Evaluation (TRE) and Toxicity Identification Evaluation (TIE):
- a) If chronic toxicity effluent limits or triggers (as appropriate) are exceeded during accelerated testing under Part I.C.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 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 submit the results of the toxicity tests with the discharge monitoring reports (DMR) for the month following sample collection.
- b) The permittee must submit the results of any accelerated testing, under Part I.C.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 the dates of sample collection and initiation of each test, the toxicity effluent limits in Tables 1 and 2, the effluent flow rate at the time of sample collection, and the results of the monitoring required in Part I.B.

D. Surface Water Column Monitoring

The permittee must conduct surface water monitoring. Surface water monitoring must start within 30 days after the effective date of the permit and continue for as long as the permit remains in effect. The program must meet the following requirements:

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1. The permittee must perform surface water monitoring at the following established stations:
 - a) Stations S-3 and S-4 in Jordan Creek.
 - b) Stations S-9 and S-10 in Yankee Fork Creek.
2. Upstream flow in Jordan Creek and in Yankee Fork Creek must be monitored as specified Part I.B (Tables 1 and 2).
3. To the extent practicable, surface water sample collection must occur on the same day as effluent sample collection.
4. All ambient samples must be grab samples.
5. Copper, lead, and zinc must be analyzed as dissolved. Mercury must be analyzed as total and selenium as total recoverable.
6. Each location shall be sampled four times per year, during January, April, July, and October for the parameters listed in Tables 4 and 5, except for temperature, which must be monitored at the frequency specified in Tables 4 and 5.
7. Samples must be analyzed for the parameters listed in Tables 4 and 5, and must achieve minimum levels (MLs) that are equivalent to or less than those listed in *Appendix A: Minimum Levels*. The permittee may request different MDLs. The request must be in writing and must be approved by EPA.

Table 4: Surface Water Monitoring Requirements for Jordan Creek		
Parameter and Units	Locations	Frequency
Copper, dissolved, µg/L	Upstream (S-3) and downstream (S-4)	See I.D.6.
Lead, dissolved, µg/L	S-3 and S-4	See I.D.6.
Mercury, total, water column, µg/L	S-3 and S-4	See I.D.6.
Selenium, total recoverable, µg/L	S-3 and S-4	See I.D.6.
Zinc, dissolved, µg/L	S-3 and S-4	See I.D.6.
Ammonia, Total as N, mg/L	S-3 and S-4	See I.D.6.
Nitrate + Nitrite, mg/L	S-3 and S-4	See I.D.6.
pH, standard units	S-3 and S-4	See I.D.6.
Temperature, °C	S-3 and S-4	Once in January, once in April, and daily from June 1 st through October 1 st
Turbidity, NTU	S-3 and S-4	See I.D.6.
Hardness as CaCO ₃	S-3 and S-4	See I.D.6.

Table 5: Surface Water Monitoring Requirements for Yankee Fork Creek		
Parameter and Units	Locations	Frequency
Copper, dissolved, µg/L	Upstream (S-9) and downstream (S-10)	See I.D.6.
Lead, dissolved, µg/L	S-9 and S-10	See I.D.6.
Mercury, total, water column, µg/L	S-9 and S-10	See I.D.6.
Selenium, total recoverable, µg/L	S-9 and S-10	See I.D.6.
Zinc, dissolved, µg/L	S-9 and S-10	See I.D.6.
Ammonia, Total as N, mg/L	S-9 and S-10	See I.D.6.

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Parameter and Units	Locations	Frequency
Nitrate + Nitrite, mg/L	S-9 and S-10	See I.D.6.
pH, standard units	S-9 and S-10	See I.D.6.
Turbidity, NTU	S-9 and S-10	See I.D.6.
Hardness as CaCO ₃	S-9 and S-10	See I.D.6.

8. Quality assurance/quality control plans for all the monitoring must be documented in the Quality Assurance Plan required under Part II.A., “Quality Assurance Plan”.
9. Submission of Surface Water Monitoring
 - a) Surface water monitoring results must be reported on the monthly DMR.
 - b) In addition, the permittee must submit all surface water monitoring results for the previous calendar year for all parameters in an annual report to EPA and IDEQ by January 31st of the following year and with the application (see Part V.B of this permit, *Duty to Reapply*). The file must be in the format of one analytical result per row and include the following information: name and contact information of laboratory, sample identification number, sample location in latitude and longitude (decimal degrees format), method of location determination (i.e., GPS, survey etc.), date and time of sample collection, water quality parameter (or characteristic being measured), analysis result, result units, detection limit and definition (i.e., MDL etc.), analytical method, date completed, and any applicable notes.

E. Methylmercury Fish Tissue Monitoring

The permittee must monitor for methylmercury in fish tissue. The program must meet the following requirements.

1. The permittee must perform monitoring for methylmercury in fish tissue annually. The annual monitoring must take place between July 1st and September 30th each year.
2. The sampling locations must be in Yankee Fork Creek, with one location being upstream of both Outfall 003 and Jordan Creek, and one location downstream of Outfall 003.
3. The target species for fish tissue monitoring must be a trophic level 3 or 4 fish. Acceptable species include, but are not limited to, mountain whitefish, steelhead, cutthroat trout, rainbow trout, and sculpin. The permittee must identify a target species and notify EPA and DEQ of the species identified by July 1st, 2016.
4. Regionally stocked fish populations must not be targeted for monitoring.
5. The permittee must obtain and comply with a fish collection permit from the Idaho Department of Fish and Game (IDFG) for the fish tissue monitoring. Fish collection must be conducted so as to avoid take of species listed as endangered or threatened under the Endangered Species Act of 1973 (ESA). Should the IDFG deny the request for a collection permit due to potential concerns for the

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protection of species under the ESA, the permittee (in concert with the IDFG) must submit to IDEQ and EPA alternative methods to acquire information germane to the protection of resident species from mercury accumulation.

6. Quality assurance and quality control procedures for the fish tissue monitoring must be documented in the Quality Assurance Plan (QAP) required by Part II.A of this permit. In addition, the following specific requirements must be met:
 - a) At least 10 fish must be collected from each sampling location.
 - b) Fish collected must be at least 10 inches in length.
 - c) The smallest fish collected must be no less than half the length of the largest fish collected.
7. The permittee must submit an annual report of the results of the annual mercury fish tissue monitoring, including all data summarized in electronic form, to IDEQ and EPA by January 20th of the following year.
8. The permittee must determine if the mercury concentrations exceed 0.3 mg methylmercury per kilogram wet weight. If the results of any one tissue analysis reveal that tissues contained greater than 0.3 mg/kg of methylmercury, then permittee must take the following steps:
 - a) Notify IDEQ and EPA of the findings of the bioaccumulation monitoring within 7 calendar days of obtaining the results.
 - b) Once the laboratory has verified the results of the tissue analysis (a period of time not to exceed 14 calendar days), the permittee must immediately initiate an investigation of the sources of mercury and take steps to reduce mercury discharges.
 - c) Prepare a report describing the results of the source identification and steps already implemented to reduce mercury concentrations in their discharge. The permittee shall submit the report to IDEQ and EPA within 60 days of receipt of the bioaccumulation results from the lab.
9. The permittee must analyze trends in mercury fish tissue concentrations. The results of the trend analysis must be provided in the annual report required in Part in part I.E.7 of this permit. The trend analysis must meet the following requirements:
 - a) The permittee must determine whether the concentrations of mercury present in fish tissue downstream show a statistically significant increase in comparison to upstream mercury tissue concentrations.
 - b) If the results indicate that the concentration of mercury in fish downstream is statistically significantly higher than the concentration upstream, then the permittee must notify IDEQ and EPA within 10 days of receiving the laboratory results.
 - c) Beginning with the second year that annual fish tissue monitoring is performed as required by this permit, the permittee must determine whether the concentrations of mercury present in fish tissue show a statistically

significant increase in comparison to the results of monitoring performed in previous years.

II. Special Conditions

A. Quality Assurance Plan (QAP)

The permittee must develop a quality assurance plan (QAP) for all monitoring required by this permit. The permittee must submit written notice to EPA and IDEQ that the Plan has been developed and implemented within 90 days of the effective date of this permit. Any existing QAPs may be modified for compliance with this section.

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 *EPA 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 that is specified in these documents.
3. At a minimum, the QAP must include the following:
 - a) Details on the number of samples, type of sample containers, preservation of samples, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.
 - b) Map(s) indicating the location of each sampling point.
 - c) Qualification and training of personnel.
 - d) Name(s), address(es) and telephone number(s) of the laboratories used by or proposed to be used by the permittee.
4. The permittee must amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP.
5. Copies of the QAP must be kept on site and made available to EPA and/or IDEQ upon request.

B. Best Management Practices Plan

1. 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.

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2. Development and Implementation Schedule

The permittee must develop and implement a BMP Plan which achieves the objectives and the specific requirements listed below. The permittee must submit written notice to EPA and IDEQ that the Plan has been developed and implemented within 180 days of the effective date of the permit. Any existing BMP plans may be modified for compliance with this section.

3. Objectives

The permittee must develop and amend the BMP Plan consistent with the following objectives for the control of pollutants.

- a) 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.
- b) 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.
- c) 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.

4. Elements of the BMP Plan

The BMP Plan must 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:

- a) Plan Components.
 - (i) 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.
 - (ii) 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.
 - (iii) Description of potential pollutant sources.

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- (iv) Risk identification and assessment.
 - (v) Standard operating procedures to achieve the above objectives and specific best management practices (see below).
 - (vi) 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.
 - (vii) Materials compatibility.
 - (viii) Good housekeeping.
 - (ix) Inspections.
 - (x) Preventative maintenance and repair.
 - (xi) Security.
 - (xii) Employee training.
 - (xiii) Recordkeeping and reporting.
 - (xiv) 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.
 - (xv) Final constructed site plans, drawings and maps (including detailed storm water outfall/culvert configurations).
- b) Specific Best Management Practices. The BMP Plan must establish specific BMPs or other measures to achieve the objectives under part II.C. and which ensure that the following specific requirements are met:
- (i) 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.
 - (ii) 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.

5. Review and Certification.

The BMP Plan must be reviewed and certified as follows:

- a) Annual review by the plant manager and BMP Committee.
- b) 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 on or before January 20th of each year of operation under this permit after the initial BMP submittal (the initial

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statement must be submitted to EPA six months after submittal of the BMP Plan).

6. Documentation

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

7. BMP Plan Modification

- a) 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.
- b) 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.
- c) 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 with the annual certification required under Part II.C.5, above.

III. General 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 Part I.B 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

During the period between the effective date of the permit and six months from the effective date of the permit, the permittee must either submit monitoring data and other reports in paper form, or must report electronically using NetDMR, a web-based tool that allows permittees to electronically submit DMRs and other required reports via a secure internet connection.

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After six months of the effective date of the permit, the permittee must submit monitoring data and other reports electronically using NetDMR.

Specific requirements regarding submittal of data and reports in paper form and submittal using NetDMR are described below.

1. Paper Copy Submissions. Monitoring data must be submitted using the DMR form (EPA No. 3320-1) or equivalent and must be postmarked by the 20th day of the month following the completed reporting period. 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*. The permittee must submit the legible originals of these documents to the Director, Office of Compliance and Enforcement, with copies to IDEQ at the following addresses:

US EPA Region 10
Attn: ICIS Data Entry Team
1200 Sixth Avenue, Suite 900
OCE-133
Seattle, Washington 98101-3140

Idaho Department of Environmental Quality
Idaho Falls Regional Office
900 N. Skyline, Suite B
Idaho Falls, ID 83402

2. Electronic Copy Submissions
 - a) Monitoring data must be submitted electronically to EPA no later than the 20th of the month following the completed reporting period. All reports required under this permit must be submitted to EPA as a legible electronic attachment to the DMR. 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*. Once a permittee begins submitting reports using NetDMR, it will no longer be required to submit paper copies of DMRs or other reports to EPA and IDEQ.
 - b) The permittee may use NetDMR after requesting and receiving permission from US EPA Region 10. NetDMR is accessed from <http://www.epa.gov/netdmr>.

C. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless another method is required under 40 CFR subchapters N or O, or other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5.

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.

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Upon request by 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:

1. the date, exact place, and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements;
3. the date(s) analyses were performed;
4. the names of 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 EPA or IDEQ 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 Part IV.F., "Bypass of Treatment Facilities");
 - c) any upset that exceeds any effluent limitation in the permit (See Part IV.G., "Upset Conditions"); or
 - d) any violation of a maximum daily discharge limitation for applicable pollutants identified by Part I.B.2.
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

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- 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 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 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.2 of this permit (“Twenty-four Hour Notice of Noncompliance Reporting”).

I. Changes in Discharge of Toxic Pollutants

The permittee must notify the Director of the Office of Water and Watersheds and IDEQ 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 EPA 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 EPA in accordance with 40 CFR 122.44(f).
3. The permittee must submit the notification to Office of Water and Watersheds at the following address:

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US EPA Region 10
Attn: NPDES Permits Unit Manager
1200 6th Ave Suite 900 M/S OWW-130
Seattle, Washington 98101-3140

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) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701) (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) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701) (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) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701) (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

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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.

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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 Part.
2. Notice.
 - a) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it must submit prior written 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 Part III.G (“Twenty-four Hour Notice of Noncompliance Reporting”).
3. Prohibition of bypass.
 - a) Bypass is prohibited, and the Director of the Office of Compliance and Enforcement 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 Part.

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- 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 paragraph 3.a. of this 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 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 Part III.G, “Twenty-four Hour 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 requirement.

I. Planned Changes

The permittee must give written notice to the Director of the Office of Water and Watersheds as specified in part III.I.3. and IDEQ 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 Part III.I (“Changes in Discharge of Toxic Substances”).

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J. Anticipated Noncompliance

The permittee must give written advance notice to the Director of the Office of Compliance and Enforcement and IDEQ 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 EPA and IDEQ, within the time specified in the request, any information that EPA or IDEQ 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 EPA or IDEQ, 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 IDEQ, it must promptly submit the omitted facts or corrected information in writing.

E. Signatory Requirements

All applications, reports or information submitted to EPA and IDEQ 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, Indian tribe, or other public agency: by either a principal executive officer or ranking elected official.

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2. All reports required by the permit and other information requested by EPA or IDEQ 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 of the Office of Compliance and Enforcement and IDEQ.
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 Director of the Office of Compliance and Enforcement and IDEQ 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 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.

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G. Inspection and Entry

The permittee must allow the Director of the Office of Compliance and Enforcement, EPA Region 10; IDEQ; 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 federal, tribal, state or local laws or regulations.

I. Transfers

This permit is not transferable to any person except after written notice to the Director of the Office of Water and Watersheds as specified in part III.I.3. 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. "Acute Toxic Unit" ("TUa") is a measure of acute toxicity. TUa is the reciprocal of the effluent concentration that causes 50 percent of the organisms to die by the end on the acute exposure period (i.e., 100"LC50").

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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. “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.
8. “Director of the Office of Compliance and Enforcement” means the Director of the Office of Compliance and Enforcement, EPA Region 10, or an authorized representative.
9. “Director of the Office of Water and Watersheds” means the Director of the Office of Water and Watersheds, EPA Region 10, or an authorized representative.
10. “Discharge” or “discharge of pollutants” is defined in 40 CFR 122.2.
11. “DMR” means discharge monitoring report.
12. “EPA” means the United States Environmental Protection Agency.
13. “Grab” sample is an individual sample collected over a period of time not exceeding 15 minutes.
14. “IDEQ” means the Idaho Department of Environmental Quality.
15. “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).
16. “Interim Minimum Level (IML)” is used when a method-specific “Minimum Level (ML)” has not been published by EPA. The IML is equal to 3.18 times the method-specified “Method Detection Limit (MDL)”.

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17. "LC50" means the concentration of toxicant (e.g., effluent) which is lethal to 50 percent of the test organisms exposed in the time period prescribed by the test.
18. "Maximum daily discharge limitation" means the highest allowable "daily discharge."
19. "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.
20. "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.
21. "NOEC" means no observed effect concentration. The NOEC is the highest concentration of toxicant (e.g., effluent) to which organisms are exposed in a chronic toxicity test [full life-cycle or partial life-cycle (short term) test], that causes no observable adverse effects on the test organisms (i.e., the highest concentration of effluent in which the values for the observed responses are not statistically significantly different from the controls).
22. "NPDES" means National Pollutant Discharge Elimination System, the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits . . . under sections 307, 402, 318, and 405 of the Act.
23. "QA/QC" means quality assurance/quality control.
24. "Regional Administrator" means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.
25. "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.
26. "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.

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Appendix A

Minimum Levels

The Table below lists the maximum Minimum Level (ML) for pollutants not subject to concentration effluent limits in the permit. The permittee may request different MLs. The request must be in writing and must be approved by EPA.

Conventional Parameters

Pollutant & CAS No. (if available)	Minimum Level (ML) $\mu\text{g/L}$ unless specified
Biochemical Oxygen Demand	2 mg/L
Soluble Biochemical Oxygen Demand	2 mg/L
Chemical Oxygen Demand	10 mg/L
Total Organic Carbon	1 mg/L
Total Suspended Solids	5 mg/L
Total Ammonia (as N)	50
Dissolved oxygen	0.2 mg/L
Temperature (max. 7-day avg.)	0.2° C
pH	N/A

Nonconventional Parameters

Pollutant & CAS No. (if available)	Minimum Level (ML) $\mu\text{g/L}$ unless specified
Nitrate + Nitrite Nitrogen (as N)	100
Total Hardness	200 as CaCO_3
Aluminum, Total (7429-90-5)	10

Priority Pollutants

Pollutant & CAS No. (if available)	Minimum Level (ML) $\mu\text{g/L}$ unless specified
METALS, CYANIDE & TOTAL PHENOLS	
Arsenic, Total (7440-38-2)	0.5
Cadmium, Total (7440-43-9)	0.25
Copper, Total (7440-50-8)	2.0
Lead, Total (7439-92-1)	0.5
Mercury, Total (7439-97-6)	0.0005
Selenium, Total (7782-49-2)	1.0
Silver, Total (7440-22-4)	0.2

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Pollutant & CAS No. (if available)	Minimum Level (ML) $\mu\text{g/L}$ unless specified
Zinc, Total (7440-66-6)	2.5
Cyanide, Weak Acid Dissociable	10

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