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",

U.S. Army Corps of Engineers
Walla Walla District
201 N. Third Street
Walla Walla, WA 99362-1876
Dworshak Reservior, Idaho
Nutrient Enhancement Pilot Project

is authorized to discharge nitrogen supplements from a portable tank mounted on a barge at the following location:

Outfall	**Receiving Water**	**Latitude**	**Longitude**
001	Dworshak Reservoir	46˚ 31' 32.70" N	116˚ 17; 45.94' W

Legal Description of Dworshak Dam is NE ¼ Section 35, T37N, R 1 E, Willamette Meridian

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 _____ 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 and Watersheds

Draft permit. This document does not authorize a discharge.

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 10th day of the month following the monitoring month.
2. Quality Assurance Plan (QAP)	The permittee must provide EPA and IDEQ with written notification that the Plan has been developed and implemented by within 30 days of 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 90 days of the effective date of the final perimt (see II.C.). The Plan must be kept on site and made available to EPA and IDEQ upon request.
4. NPDES Application Renewal	The application must be submitted on or before 180 days before the expiration date of the final permit (see V.B.).
5. Surface Water Monitoring Report	The Report must be submitted annually by December 31st (see I.C.).

Schedule of Submissions **2**

I. Limitations and Monitoring Requirements **4**

A. Discharge Authorization 4
B. Effluent Limitations and Monitoring 4
C. Surface Water Monitoring 5

II. Special Conditions **8**

A. Quality Assurance Plan (QAP) 8
B. Best Management Practices Plan 8

III. General Monitoring, Recording and Reporting Requirements **11**

A. Representative Sampling (Routine and Non-Routine Discharges) 11
B. Reporting of Monitoring Results 11
C. Monitoring Procedures 12
D. Additional Monitoring by Permittee 12
E. Records Contents 12
F. Retention of Records 13
G. Twenty-four Hour Notice of Noncompliance Reporting 13
H. Other Noncompliance Reporting 13
I. Changes in Discharge of Toxic Pollutants 14

IV. Compliance Responsibilities **14**

A. Duty to Comply 14
B. Penalties for Violations of Permit Conditions 15
C. Need To Halt or Reduce Activity not a Defense 16
D. Duty to Mitigate 16
E. Proper Operation and Maintenance 16
F. Bypass of Treatment Facilities 17
G. Upset Conditions 17
H. Toxic Pollutants 18
I. Planned Changes 18
J. Anticipated Noncompliance 18

V. General Provisions **18**

A. Permit Actions 18
B. Duty to Reapply 19
C. Duty to Provide Information 19
D. Other Information 19
E. Signatory Requirements 19
F. Availability of Reports 20
G. Inspection and Entry 20
H. Property Rights 21
I. Transfers 21
J. State Laws 21

VI. Definitions **21**

I. Limitations and Monitoring Requirements

A. Discharge Authorization

During the effective period of this permit, the Permittee is authorized to discharge liquid 32-0-0 urea-ammonium nitrate fertilizer (effluent) into Dworshak Reservoir from a barge that is fitted with a delivery tank, from April 1st through September 30th each year, provided the discharge meets the limitations and monitoring requirements set forth herein. This permit does not authorize the discharge of any waste streams, including spills and other unintentional or non-routine discharges of pollutants, that are not part of the normal operation of the facility as disclosed in the permit application.

B. Effluent Limitations and Monitoring

1. The permittee must limit and monitor discharges into Dworshak Reservoir as specified in Table 1 below. 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.
2. The permittee must not discharge excess nutrients in amounts that can cause visible slime growths or other nuisance aquatic growths impairing designated beneficial uses of the receiving water.
3. The permittee must not discharge more frequently than once per week.
4. The permittee must not discharge fertilizers containing phosphorus.
5. The total volume of effluent must be measured and mass of total nitrogen added to each reservoir section must be calculated for each discharge event and reported on the monthly DMR.
6. The effluent dilution ratio and concentration of total nitrogen added to the reservoir must be calculated for each discharge event in accordance with I.B.7 below and reported on the monthly DMR.
7. The permittee must calculate the effluent dilution ratio using the following equation based on total volume of N applied and volume of the epilimnion:
   a) Effluent Dilution Ratio = volume of the epilimnion (L)/Total effluent applied to the epilimnion (L).
   b) The volume of the epilimnion shall be calculated on a monthly basis using the following equation:

$$V_e = \left(\frac{A_s + A_t}{2}\right) \times D_t$$

Where:

V_e = Volume of the reservoir epilimnion

A_s = Surface area of the reservoir at the current pool elevation

A_t = Surface area of the reservoir at the elevation of the thermocline

D_t = Depth of the thermocline

8. The permittee must sample the fertilizer at least once prior to discharging for total nitrogen, nitrate+nitrite, and total ammonia concentrations. For every day in which a discharge occurs, the permittee must calculate the mass of total nitrogen and total ammonia discharged based on the concentrations of these pollutants in the fertilizers and the volume of fertilizers discharged that day. The permittee must report the average monthly and maximum daily discharges of total nitrogen and total ammonia in lb/day on the monthly DMR.

Table 1: Effluent Limitations and Monitoring Requirements

Parameter	Units	Weekly Maximum	Sample Frequency	Sample Type	Statistics to Report
Volume, 32-0-0	Gallons	3,100	Once per discharge	Measure	Total volume by reservoir section
Total Nitrogen	Pounds	11,000	Once per discharge	Calculation	Total weight by reservoir section
Effluent Dilution Ratio, 32-0-0	ratio	Report	Once per discharge	Calculation	Whole reservoir dilution ratio
Total Nitrogen	µg/L	Report	Once per discharge	Calculation	Concentration of TN added to the reservoir
Nitrate + Nitrite as N	Pounds	Report	Once per discharge	Calculation	Total weight by reservoir section
Total Ammonia as N	Pounds	Report	Once per discharge	Calculation	Total weight by reservoir section

C. Surface Water Monitoring

The permittee must conduct surface water monitoring. Surface water monitoring must continue as long as the permit remains in force. The program must meet the following requirements:

1. Monitoring stations must be established in the Dworshak Reservoir and the North Fork Clearwater River at the following locations:

Table 2: Receiving Water Monitoring Locations

Station	Reservoir Section	Location Description
NFC	N/A	In North Fork Clearwater approximately 1.7 km below Dworshak Dam, at or near boat ramp.
RK-2	1	At U.S. Army Corps water quality buoy.
EC-6	1	At no wake buoy in Elk Creek arm.
RK-31	2	At Corps WQ buoy downstream of Cranberry Creek.
RK-56	2	At U.S. Army Corps water quality buoy between Silver and Gold Creeks.
LNF-3	3	At Corps WQ buoy near mouth of Gleason Creek.
RK-72	3	At U.S. Army Corps water quality buoy between Benton and Anderson Creeks.

2. All ambient samples from the epilimnion, except for pH and dissolved oxygen, must be composite samples, consisting of grabs from 1, 3, 5 and 7 m, which will then be mixed together. Ambient samples from the river will consist of a single grab from flowing water.

3. Grab samples for pH must be taken at 1 meter depth.

4. All samples must be analyzed for the parameters listed in Table 3 to achieve method detection limits (MDLs) that are equivalent to or less than those listed in Table 3. The permittee may request different MDLs. Such a request must be in writing and must be approved by EPA.

5. Surface water monitoring results must be submitted annually to EPA and IDEQ by December 31st. 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.

6. Quality assurance/quality control plans for all the monitoring must be documented in the Quality Assurance Plan required under Part I.D., "Quality Assurance Plan".

Table 3: Receiving Water Monitoring Requirements

Parameter (units)	Units	Sample Locations	Sample Frequency	Maximum MDL	Sample Type
Chlorophyll *a*	µg/L	Reservoir epilimnion and NFC	1/month[2]	0.05 µg/L	Depth-integrated composite
Dissolved Oxygen	mg/L	Reservoir – surface to 60 m	1/month[2]	—	Measure
Epilimnetic volume	m^3	Reservoir	1/month[1]	—	Calculation
Nitrate + Nitrite as N	µg/L	Reservoir epilimnion and NFC	1/month[2]	1 µg/L	Depth-integrated composite
Total ammonia as N	µg/L	Reservoir epilimnion and NFC	1/month[2]	10 µg/L	Depth-integrated composite
Total Nitrogen	µg/L	Reservoir epilimnion and NFC	1/month[2]	10 µg/L	Depth-integrated composite
Phytoplankton, zooplankton and bacterioplankton (see I.C.7. – I.C.9.)	cells/ml	Reservoir epilimnion	1/month[2]	—	Depth-integrated composite
pH	s.u	Reservoir epilimnion and NFC	1/month[2]	—	Grab
Pool elevation	m	Dworshak Dam	1/month[2]	—	Measure
Secchi depth	m	Reservoir	1/month[2]	—	Measure
Temperature	ºC	Reservoir – surface to 60 m	1/month[2]	—	Measure
Thermocline depth	m	Reservoir	1/month[2]	—	Measure
Total Dissolved Phosphorus	µg/L	Reservoir epilimnion and NFC	1/month[2]	1 µg/L	Depth-integrated composite
Total Phosphorus	µg/L	Reservoir epilimnion and NFC	1/month[2]	1 µg/L	Depth-integrated composite

Notes:
1. The permittee must calculate and record the receiving water epilimnion volume for every month in which a discharge occurs.
2. The permittee must sample the receiving water once during every month in which a discharge occurs, but no more than 14 days after the prior discharge.

7. The following water quality limits shall not be exceeded within the reservoir due to nutrient enhancement activities, unless otherwise determined by the EPA and IDEQ. The permittee shall notify EPA and IDEQ within 24 hours of determining that the following limits will be violated and cease nutrient additions until obtaining approval from the EPA and IDEQ to resume.
   a) If the annual median for chlorophyll a exceeds 3.0 µg/L
   b) If the annual median for Sechhi depth is less than 3.0 m.
8. The permittee must obtain quantitative measurements of bacterioplankton and phytoplankton abundance (cells/mL) and biovolume (mm^3/L) from direct microscopic counts.
9. Estimates of both micro- and macrozooplankton biomass/species composition must be made by direct counts from 0-35 or 50 m vertical hauls with Wisconsin type net (80 um mesh diameter) with removable cup.
10. For any sample in which the total abundance of blue-green algae is greater than or equal to 20,000 cells/ml, or in which blue-green algae are visually apparent, the permittee must perform the following additional analyses:
    a) The permittee must quantitatively analyze the sample for microcystin concentration.
    b) The permittee must analyze for the presence or absence of anatoxin-a.
11. Ad-hoc sampling for blue-green algae: If a blue-green algae bloom is observed during routine sampling or discharge, the permittee must take the following actions:
    a) The permittee must notify EPA and IDEQ within 24 hours of observing a blue-green algae bloom in Dworshak Reservoir.
    b) The permittee must collect at least one grab sample from the surface where concentrations of algae or scums are visible. If there are locations with visual differences (i.e., different color), the permittee must collect at least one additional grab sample from each of those locations. The permittee must analyze the samples as follows:
       (i) Analysis must be expedited, with a turn-around time of no more than 24 hours.
       (ii) Blue-green algae must be enumerated in cells/mL.
       (iii) The permittee must quantitatively analyze the sample for microcystin concentration.
       (iv) The permittee must analyze for the presence or absence of anatoxin-a.
12. The permittee must notify EPA and IDEQ within 24 hours of receiving results from routine sampling (see Part I.C.8 – 10) or ad-hoc sampling (see Part I.C.11) showing one or more of the following conditions:
    a) A combined cell count of all toxigenic cyanobacteria species greater than or equal to 100,000 cells/ml.

b) A cell count of Microcystis or Planktothrix greater than or equal to 40,000 cells/mL.

c) Microcystin concentration greater than or equal to 10 µg/L.

d) Detection of anatoxin-a.

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 provide EPA and IDEQ with written notification that the Plan has been developed and implemented within 30 days of the effective date of the final permit. Any existing QAPs may be modified for submittal under 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 *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 potential for the release of pollutants from the facility to the waters of the United States in amounts that will cause or

contribute to violations of Idaho's water quality standards, including narrative criteria for water quality and antidegradation requirements.

2. Development and Implementation Schedule: The permittee must provide EPA and IDEQ with written notification that the BMP plan has been developed and implemented within 90 days of the effective date of the final permit. Any existing BMP plans may be modified for submittal and approval under this section. The permittee must implement the provisions of the plan as conditions of this permit within 90 days of the effective date of the final permit.

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

4. Elements of the BMP Plan:

   a) 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) or any subsequent revision to this guidance document.

   b) Specific Best Management Practices. The BMP Plan must establish specific BMPs or other measures to achieve the purpose of the BMP Plan under subpart (a), and which ensure that the following specific requirements are met:

      (i) Any equipment operated adjacent to waters of the United States or waters of the State of Idaho shall be maintained in a good state of repair in order to prevent an unauthorized release of pollutants into waters of the United States or waters of the State of Idaho, including but not limited to any equipment for metering and monitoring the discharge of fertilizer to Dworshak Reservior.

      (ii) The permittee must store the fertilizers in a manner consistent with the "Handling and Storage" section of the material safety data sheets for the fertilizers. Containers, pipes, and fittings must be properly maintained.

      (iii) The permittee must have adequate procedures, containment, and equipment in place to prevent an uncontrolled discharge of fertilizer to surface waters.

      (iv) The permittee must take reasonable steps to prevent tampering or vandalism resulting in an uncontrolled discharge of fertilizer to surface waters.

      (v) The discharge must consist of urea and ammonium nitrate at a flow rate and concentration that will not result in an increase of more than 20 µg/L total nitrogen over ambient total nitrogen concentrations.

      (vi) The permittee must apply fertilizer in a manner such that the fertilizer is rapidly mixed with the receiving water.

(vii) The permittee must publish notice in the legal notices section of a local and a regional newspaper at least two weeks prior to the treatment period. A copy of the original affidavit from the legal department of the newspapers shall be retained by the permittee for at least seven years and supplied to EPA and IDEQ upon request. Legal notices shall include the following information: 1) chemicals to be used and active ingredients; 2) approximate dates of discharge; 3) approximate location to be treated (length of reservoir affected); 4) water use restrictions or precautions; 5) the name and phone number of the project coordinator.

(viii) The permittee must post caution signs at all public recreation points on both shores of the reservoir within each mixing zone. The word "Caution" must be of sufficient size to allow boaters to read it from the water. The signs must provide a brief description of the project including: project purpose; chemicals used; any water use restriction such as, swimming in the vicinity of the discharge,; and the name and phone number of the project coordinator.

(ix) In the event of a spill or other uncontrolled release of fertilizer, the permittee must immediately follow the appropriate procedures listed under "Accidental Release Measures" in the material safety data sheet(s) for the spilled fertilizer(s).

(x) In accordance with the Idaho Hazardous Materials Response Plan, the permittee must immediately report the following to the Idaho State Communications Center at 1-800-632-8000 and to EPA's NPDES Compliance Hotline at 206-553-1846. This reporting requirement is in addition to the noncompliance reporting requirements of Part III.G. and III.H. of this permit:

(a) Any spill or other unauthorized release of fertilizer or hazardous materials.

(b) Any above ground spill or overflow of petroleum resulting in a release that exceeds 25 gallons or causes a sheen on nearby surface water.

5. BMP Plan Modification

a) The permittee must amend the BMP Plan whenever there is a change in application procedure or in the operation of the application equipment or facilities which materially increases the introduction of fertilizer or the 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 objectives of providing a balanced nutrient loading for Dworshak Reservoir, improving the carbon flow within the reservoir, improving water quality by decreasing blue-green algae and promoting desirable phytoplankton and zooplankton, and improving the overall health and size structure of the kokanee population in the reservoir.

c) Any changes to the BMP Plan must be consistent with the objectives and specific requirements listed above.

C. Conditions of Idaho Clean Water Act Section 401 Water Quality Certification

1. The permittee shall submit to EPA and IDEQ two copies of the Dworshak Reservoir Nutrient Enhancement Project Progress Report and Data Summary. At a minimum, this document shall include the following:
   a) Description of the application activities;
   b) Description of the environmental conditions (climate and hydrology);
   c) Description of the monitoring methods and results (similar to the requirements in Part 1.C.5 of this permit); and
   d) Discussion of the results.
2. Within thirty days of receipt of the Dworshak Reservoir Nutrient Enhancement Project Progress Report and Data Summary, IDEQ will respond with any questions, comments or requests for further information. If further information is required by IDEQ, the permittee shall submit such information to IDEQ within thirty days of IDEQ's request.
3. If at any time during the period of nutrient enhancement activities, notification to IDEQ is required, the permittee shall notify the IDEQ Lewiston Regional Office at (208) 799-4370 or email John.Cardwell@deq.idaho.gov.

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

1. Paper copy submissions

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 10th day of the following month. 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 M/S OCE-133
Seattle, Washington 98101-3140

Idaho Department of Environmental Quality
1118 F Street
Lewiston, ID 83501

2. Electronic submissions

If, during the period when this permit is effective, EPA makes electronic reporting available, the permittee may submit reports electronically, following guidance provided by EPA according to the same due dates in §III.B.1, above. The permittee must certify all DMRs and all other reports in accordance with the requirements of Part V.E ("Signatory Requirements"). The permittee must retain the legible originals of these documents and make them available, upon request, to the EPA Region 10 Director, Office of Compliance and Enforcement.

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 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.

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"), and,
   c) any upset that exceeds any effluent limitation in the permit (See Part IV.G., "Upset Conditions").
2. The permittee must also provide a written submission within five 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 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 in writing 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:

   US EPA Region 10
   Attn: NPDES Permits Unit Manager
   1200 Sixth Avenue
   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 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 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.
   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").

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 by 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.
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.

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. "Administrator" means the Administrator of the EPA, or an authorized representative.
3. "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.
4. "Blue-green algae" means phyla of bacteria that obtain their energy through photosynthesis and contain a blue pigment in addition to chlorophyll. Also called cyanobacteria, cyanophyta, or blue-green bacteria.
5. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

6. “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.
7. “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.
8. “DMR” means discharge monitoring report.
9. “EPA” means the United States Environmental Protection Agency.
10. “Grab” sample is an individual sample collected over a period of time not exceeding 15 minutes.
11. “IDEQ” means the Idaho Department of Environmental Quality.
12. “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.
13. “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.
14. “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 CWA.
15. “QA/QC” means quality assurance/quality control.
16. “Regional Administrator” means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.
17. “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.
18. “Toxigenic blue-green algae” means blue-green algae of the following taxa: Anabaena, Microcystis, Planktothrix, Nostoc, Coelophaerium, Anabanopsis, Aphanizomenom, Gloeotrichia, and Oscillatoria.
19. “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.