United States Environmental Protection Agency
Region 10
1200 Sixth Avenue Suite 900
Seattle, Washington 98101-3140

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",

City of Kamiah
Water Treatment Plant
1755 S. Laguna Drive
Kamiah, Idaho 83536

is authorized to discharge from the City of Kamiah Water Treatment Plant facility located in Kamiah, Idaho, at the following location(s):

Outfall	Receiving Water	Latitude	Longitude
001	Clearwater River	46° 13' 44"N	116° 01' 04" W

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

This permit shall become effective ***insert date***

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

The permittee shall reapply for a permit reissuance on or before ***insert date***, 180 days before the expiration of this permit if the permittee intends to continue operations and discharges at the facility beyond the term of this permit.

Signed this day of

DRAFT
Daniel D. Opalski, Director
Office of Water and Watersheds

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 following month. (see III.B)
2. Quality Assurance Plan (QAP)	The permittee must provide EPA and the Nez Perce Tribe with written notification that the Plan has been developed and implemented within 90 days after the effective date of the final permit. The Plan must be kept on site and made available to EPA and the Nez Perce Tribe upon request. (see II.B)
3. Operation and Maintenance (O&M) Plan	The permittee must provide EPA and the Nez Perce Tribe with written notification that the Plan has been developed and implemented within 180 days after the effective date of the final permit. The Plan must be kept on site and made available to EPA and the Nez Perce Tribe upon request. (see II.A)
4. NPDES Application Renewal	The application must be submitted at least 180 days before the expiration date of the permit (see V.B.).
5. 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 footnote 2 in I.B.)
6. Best Management Practices (BMP) Plan	The permittee must provide written notification that the Plan has been developed and implemented within 180 days of the effective date of the Permit (see II.C.). The Plan must be kept on site.

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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 the Clearwater River, within the limits and subject to the conditions set forth herein. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

B. Effluent Limitations and Monitoring

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

Table 1 Outfall 001 Effluent Limitations and Monitoring Requirements

Parameter	Units	Effluent Limitations		Monitoring Requirements	
		Average Monthly	Maximum Daily	Sample Frequency	Sample Type
Total Suspended Solids (TSS)	mg/l	30	45	Monthly	Grab
	lb/day[1]	12.23	18.35		
Total Residual Chlorine[2]	mg/l	0.3	0.5	Weekly	Grab
	lb/day	0.12	0.20		
pH	s.u.	see Part I.B.3.		Weekly	Grab
Outfall Flow[3]	gpd	Report	Report	Daily	Estimate
Metals[4, 5]	ug/l	Report	Report	Annually	Grab
TTHMs[5, 6]	µg/L	Report	Report	Annually	Grab
Turbidity	NTUs	Report	Report	Monthly	Grab
Aluminum	µg/L	Report	Report	Annually	Grab
Alkalinity	mg/l as $CaCO_3$	Report	Report	Monthly	Grab
Temperature	°C	Report	Report	Weekly	Grab

Table 1 Outfall 001 Effluent Limitations and Monitoring Requirements					
Parameter	**Units**	**Effluent Limitations**		**Monitoring Requirements**	
		Average Monthly	**Maximum Daily**	**Sample Frequency**	**Sample Type**

Footnotes:
1. Loading is calculated by multiplying the concentration (mg/L) by the flow (mgd) on the day sampling occurred and a conversion factor of 8.34
2. Reporting is required within 24 hours of a maximum daily limit violation. See Part III.G.
3. Flow estimate based on facility operation (i.e., backwash volume and frequency, etc.) Report average monthly flow and maximum daily flow (gpd).
4. Analyses for the thirteen metals (identified as Compound Nos. 1 – 13 by the National Toxics Rule at 40 CFR § 131.36) These parameters must be analyzed and reported as total recoverable. These include: antimony, arsenic, beryllium, cadmium, chromium (III and VI), copper, lead, mercury, nickel, selenium, silver, thallium, and zinc.
5. Sampling required during first three years of permit only.
6. TTHM = Total Trihalomethanes. Analysis for chloroform, chlorodibromomethane, dichlorobromomethane, and bromoform.

2. The permittee must report within 24 hours any violation of the maximum daily limits for chlorine. 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.).
3. The pH must not be less than 6.5 or greater than 9.0 standard units.
4. The permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
5. Method Detection Limits. For all effluent monitoring, the permittee must use methods that can achieve a minimum level (ML) less than the effluent limitation.

a) 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 Minimum Level (ML), the permittee must report "less than {numeric value of the ML}."

b) 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. The resulting average value must be compared to the compliance level, the ML, in assessing compliance.

6. The permittee must not discharge any floating, suspended, or submerged matter of any kind in concentrations causing a nuisance or objectionable conditions or that may impair the designated beneficial uses of the receiving water.
7. The permittee must not discharge toxic pollutants in concentrations that impair beneficial uses of the receiving water.
8. The permittee must not discharge deleterious materials in concentrations that impair beneficial uses of the receiving water.

II. Special Conditions

A. Operation and Maintenance Plan

In addition to the requirements specified in Section IV.E. of this permit (Proper Operation and Maintenance), within 180 days of the effective date of this permit, the permittee must provide written notice to EPA and the Nez Perce Tribe that an operation and maintenance plan for the current water treatment facility has been developed and implemented. The plan shall be retained on site and made available on request to EPA and the Nez Perce Tribe. Any changes occurring in the operation of the plant shall be reflected within the Operation and Maintenance plan.

B. 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 the Nez Perce Tribe 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 the Nez Perce Tribe upon request.

C. 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.

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 that the Plan has been developed and implemented within 180 days of the effective date of this permit. Any existing BMP plans may be modified for compliance with this section.

3. Documentation

   A copy of the BMP Plan shall be maintained at the facility and be available to EPA or its authorized representatives, upon request.

4. 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, 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.

5. 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.

(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) Record keeping 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.

b) Specific Best Management Practices. The BMP Plan must establish specific BMPs or other measures to achieve the objectives under Part 4 above 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.

6. 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 reviewed and approved in writing by the BMP Committee.

III. Monitoring, Recording and Reporting Requirements

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

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

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters limited in 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

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

1. Paper Copy Submissions.

   a) Monitoring data must be submitted using the DMR form (EPA No. 3320-1) or equivalent and must be postmarked by the 10th 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 Nez Perce Tribe at the following addresses:

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

Nez Perce Tribe
Attn: Ken Clark
Water Resources Division
P.O. Box 365
Lapwai, ID 83540

2. Electronic Copy Submissions

   a) Monitoring data must be submitted electronically to EPA no later than the 10th 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 Nez Perce Tribe.

   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 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 the Nez Perce Tribe 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 footnote 2 of Table 1 of Part I.B.
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. Public Notification

The permittee must immediately notify the public, health agencies and other affected entities (e.g., public water systems) of any overflow which the permittee owns or has operational control; or any unanticipated bypass or upset that exceeds any effluent limitation in the permit in accordance with the notification procedures developed in accordance with Part II.G.

J. Notice of New Introduction of Toxic Pollutants

The permittee must notify the Director of the Office of Water and Watersheds and the Nez Perce Tribe in writing of:

1. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to Sections 301 or 306 of the Act if it were directly discharging those pollutants; and
2. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
3. For the purposes of this section, adequate notice must include information on:
   a) The quality and quantity of effluent to be introduced into the POTW, and
   b) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
4. The permittee must notify the Director of the Office of Water and Watersheds at the following address:

   US EPA Region 10
   Attn: NPDES Permits Unit Manager
   1200 6th Avenue
   Suite 900 OWW-130
   Seattle, WA 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.J.4. and the Nez Perce Tribe 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 not subject to effluent limitations in this permit.
3. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application site.

J. Anticipated Noncompliance

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

E. Signatory Requirements

All applications, reports or information submitted to EPA and the Nez Perce Tribe 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 the Nez Perce Tribe 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 the Nez Perce Tribe.

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 the Nez Perce Tribe 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; the Nez Perce Tribe; 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.J.4. 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. Permit Reopener and Modification.

EPA is authorized to modify or revoke and reissue a permit pursuant to 40 CFR § 122.62. Effluent limits, monitoring requirements or other permit conditions may be modified if new information is received which was not available at the time of issuance and would have justified the application of different permit conditions at the time of issuance (e.g. information showing violations of state water quality standards). This includes information indicating cumulative effects which are unacceptable. New information may originate from future waste load allocations and biological opinions issued pursuant to the Endangered Species Act.

K. 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. "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.
4. "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.
5. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
6. "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.
7. "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.
8. "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.
9. "DMR" means discharge monitoring report.
10. "EPA" means the United States Environmental Protection Agency.
11. "Grab" sample is an individual sample collected over a period of time not exceeding 15 minutes.
12. " Maximum daily discharge limitation" means the highest allowable "daily discharge."
13. "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.

14. "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.
15. "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.
16. "QA/QC" means quality assurance/quality control.
17. "Regional Administrator" means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.
18. "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.
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.