

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 USC §1251 *et seq.*, as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act",

The Lummi Tribal Sewer District

is authorized to discharge from their **Kwina Road** facility located within the Lummi Indian Reservation near Bellingham, WA at the following location(s):

Outfall	Receiving Water	Latitude	Longitude
001	Wetland No. 2011-08	48° 47.448 N	122° 36.762 W

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

This Permit shall become effective August 1, 2015.

This Permit and the authorization to discharge shall expire at midnight, July 31, 2020.

The Permittee shall reapply for Permit reissuance on or before February 1, 2020, 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 22nd day of June 2015.

/s/
Daniel D. Opalski, Director
Office of Water and Watersheds

Schedule of Submissions

Item	Due Date
Discharge Monitoring Reports (DMR)	DMRs are due monthly and must be submitted/postmarked on or before the 20th of the month following the monitoring month.
Operation and Maintenance (O&M) Plan	The Permittee must provide the EPA and the LNR with written notification that the O&M Plan has been developed and implemented within 180 days of the effective date of the Permit (See Part II.A of this Permit). The O&M Plan must be kept on site and made available to EPA and the LNR upon request.
Quality Assurance Plan (QAP)	The Permittee must provide the EPA and the Lummi Natural Resources Department (LNR) with written notification that the QAP has been developed and implemented within 180 days of the effective date of the Permit (See Part II.B of this Permit). The QAP must be kept on site and made available to EPA and the LNR upon request.
Emergency Response and Public Notification Plan	The Permittee must develop and implement an overflow Emergency Response and Public Notification Plan. The Permittee must submit written notice to the EPA and the LNR that the Plan has been developed and implemented within 180 days of the effective date of this Permit (See Part II.C of this Permit).
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 Part III.G and Paragraph I.B.6 of this Permit).
NPDES Application Renewal	The application for Permit renewal must be submitted at least 180 days before the expiration date of this Permit (See Part V.B of this Permit).

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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 Wetland No. 2011-08 as identified in the Lummi Nation Wetland Management Program, within the Lummi Indian Reservation south of Marine Drive and east of Lummi Shore Road, within the limits and subject to the conditions set forth herein. The EPA notes that the January 2015 Endangered Species Act Biological Assessment of this project, completed by consultants for the Lummi Tribal Sewer District, identified this receiving wetland as “Wetland X”, but that document and this Permit are referring to the same receiving water. 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 the table 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. Effluent Limitations and Monitoring Requirements

Parameter	Units	Effluent Limitations			Monitoring Requirements		
		Average Monthly	Average Weekly	Maximum Daily	Sample Location	Sample Frequency	Sample Type
Parameters With Effluent Limits							
Biochemical Oxygen Demand (BOD ₅)	mg/L	30	45	--	Influent and Effluent	2/month	24-hour composite
	lbs/day	26	40	--			Calculation ¹
BOD ₅ Percent Removal	%	85 (minimum)	--	--	--	1/month	Calculation ²
Total Suspended Solids (TSS)	mg/L	30	45	--	Influent and Effluent	2/month	24-hour composite
	lbs/day	26	40	--			Calculation ¹
TSS Percent Removal	%	85 (minimum)	--	--	--	1/month	Calculation ²

Parameter	Units	Effluent Limitations			Monitoring Requirements		
		Average Monthly	Average Weekly	Maximum Daily	Sample Location	Sample Frequency	Sample Type
Fecal Coliform ³	colonies /100 ml	50 (geometric mean)			Effluent	1/week	Grab
Enterococci	colonies /100 ml	33 (geometric mean)		61 ⁴ (single sample maximum)	Effluent	1/week	Grab
pH	std units	Not less than 6.5 or more than 8.5 at all times			Effluent	2/week	Grab
Total Ammonia (as N)	mg /L	2.6	--	10.1 ⁴	Effluent	1/week	24-hour composite
	lbs/day	2.3	--	9.0 ⁴			Calculation ¹
Floating, Suspended, or Nuisance Matter	See Parts I.B.2 and I.B.3 of this Permit				Outfall	1/week	Visual Observation
Report Parameters							
Flow	mgd	Report	--	Report	Effluent	Continuous	Recording
Temperature	°C		Report	Report Daily and Instant. Max	Effluent	Continuous	Recording
		See Parts I.B.4 and I.B.5 of this permit					
Total Dissolved Solids (TDS) ⁵					Effluent	1/year	24-hour composite
Total Phosphorus					Effluent	1/quarter	24-hour composite
Total Kjeldahl Nitrogen (TKN)	mg/L	Report	--	Report	Effluent	1/quarter	24-hour composite
Total Nitrate/Nitrite as N	mg/L	Report	--	Report	Effluent	1/quarter	24-hour composite
Dissolved Oxygen	mg/L	Report Minimum and Average			Effluent	1/month	Grab

Parameter	Units	Effluent Limitations			Monitoring Requirements		
		Average Monthly	Average Weekly	Maximum Daily	Sample Location	Sample Frequency	Sample Type
<u>Notes</u>							
<ol style="list-style-type: none"> 1. Pollutant loading (in lbs/day) is calculated by multiplying the concentration (in mg/L) by the corresponding flow (in mgd) for the day of sampling and a conversion factor of 8.34. For more information on calculating, averaging, and reporting loads and concentrations see the <i>NPDES Self-Monitoring System User Guide</i> (EPA 833-B-85-100, March 1985). 2. Percent Removal. The monthly average percent removal must be calculated from the arithmetic mean of the influent values and the arithmetic mean of the effluent values for that month using the following equation: (average monthly influent concentration – average monthly effluent concentration) ÷ average monthly influent concentration x 100. Influent and effluent samples must be taken over approximately the same time period. 3. The average monthly Fecal Coliform counts must not exceed a geometric mean of 50/100 ml based on a minimum of five samples taken every 3 - 7 days within a calendar month. See Part VI of this Permit for a definition of geometric mean. In addition, no more than 10 percent of the samples obtained for calculating the geometric mean density shall exceed 100 colonies/100 mL of water. 4. Reporting is required within 24 hours of a maximum daily limit or instantaneous maximum limit violation. See Paragraph I.B.6 and Part III.G of this Permit. 5. Effluent Testing Data - See NPDES Permit Application Form 2A, Part B.6 for the list of pollutants to be included in this testing. The Permittee must use sufficiently sensitive analytical methods in accordance with Part I.B.8 of this Permit. 							

2. Narrative limitations for floating, suspended, or nuisance matter:
 - a) The Permittee must not discharge visible oils, scum, foam, grease and other floating materials and suspended substances of a persistent nature resulting from anthropogenic causes.
 - b) The Permittee must not discharge nutrients in concentrations producing objectionable algal densities or nuisance aquatic vegetation, or resulting in acute toxicity to any aquatic biota or wildlife, or otherwise causing nuisance conditions.
3. The Permittee must conduct once weekly visual inspections of the effluent at the location where the effluent enters Wetland No. 2011-08 in order to confirm that the effluent meets the narrative limitations for floating, suspended, or nuisance matter. A written log of the weekly inspections; including a recording of the date, time, observer, and observations made must be retained and made available to EPA or the LNR upon request.
4. Continuous temperature monitoring of the effluent must begin six (6) months from the effective date of this Permit. Temperature data must be recorded using a micro-recording temperature devices known as thermistors. Set the recording

device to record at one-hour intervals. Report the following temperature monitoring data on the DMR: monthly instantaneous maximum, maximum daily average, seven-day running average of the daily instantaneous maximum.

5. The Permittee must use the temperature device manufacturer's software to generate (export) an Excel or electronic ASCII text file. The file must be submitted annually to the EPA and the Lummi Natural Resources Department (LNR) by January 31 for the previous monitoring year along with the placement log. The placement logs should include the following information for both thermistor deployment and retrieval: date, time, temperature device manufacturer ID, location, depth, whether it measured air or water temperature, and any other details that may explain data anomalies.
6. The Permittee must report within 24 hours any violation of the maximum daily or instantaneous maximum limits for the following pollutants: Enterococci and Total Ammonia as N. Violations of all other effluent limits are to be reported at the time that the DMR is submitted (See Parts III.B and III.G of this Permit).
7. The Permittee must collect influent samples prior to the first treatment unit and collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving water. The sample must be representative of the volume and nature of the monitored discharge. If no discharge occurs during the reporting period, then "no discharge" must be reported on the DMR.
8. Minimum Levels. For all effluent monitoring, the Permittee must use sufficiently sensitive analytical methods which meet the following:
 - a) Parameters with an effluent limit. The analytical method must achieve a minimum level (ML) less than the effluent limitation unless otherwise specified in Table 1.
 - b) Parameters that do not have effluent limitations.
 - (i) The Permittee must use a method that detects and quantifies the level of the pollutant in the effluent sample; or,
 - (ii) The Permittee must use a method that can achieve a maximum ML less than or equal to those specified in Attachment A.
 - c) For parameters that do not have an effluent limit, the Permittee may request different MLs from the EPA. The request must be made in writing to the EPA

Region 10 Permits Unit Manager and must be approved by EPA before the alternative ML will go into effect.

- d) See also Part III.C of this Permit.
9. For purposes of reporting on the DMR for a single sample, if a value is less than the MDL, the Permittee must report “less than {numeric value of the MDL}” and if a value is less than the ML, the Permittee must report “less than {numeric value of the ML}.”
10. 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.

II. Special Conditions

A. Operation and Maintenance Plan

In addition to the requirements specified in Part IV.E of this Permit, the Permittee must submit written notice to the EPA and the LNR that an operations and maintenance (O&M) plan for the current wastewater treatment facility has been developed and implemented within the first 180 days of the effective date of this Permit. The O&M plan must be retained on site and made available to the EPA and/or the LNR upon request. Any changes occurring in the operation of the facility must be reflected within the O&M plan within two (2) months of making the change.

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 the EPA and the LNR that the QAP has been developed and implemented within the first 180 days of the effective date of this Permit. Any existing QAPs may be modified for compliance with this section within the first 180 days of the effective date of this Permit.

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; and,
 - d) The 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 retained on site and made available to EPA and/or the LNR upon request.

C. Emergency Response and Public Notification Plan

1. The Permittee must develop and implement an overflow Emergency Response and Public Notification Plan that identifies measures to protect public health from overflows that may endanger health and unanticipated bypasses or upsets that exceed any effluent limitation in the Permit. At a minimum the Plan must include mechanisms to:
 - a) Ensure that the Permittee is aware (to the greatest extent possible) of all overflows from portions of the collection system over which the Permittee has ownership or operational control and unanticipated bypass or upset that exceed any effluent limitation in the Permit;
 - b) Ensure appropriate responses including assurance that reports of an overflow or of an unanticipated bypass or upset that exceed any effluent limitation in the Permit are immediately dispatched to appropriate personnel for investigation and response;

- c) Ensure immediate notification to the public, health agencies, and other affected public entities (including public water systems). The overflow response plan must identify the public health and other officials who will receive immediate notification;
 - d) Ensure that appropriate personnel are aware of and follow the Plan, are appropriately trained; and,
 - e) Provide emergency operations.
2. The Permittee must submit written notice to EPA and the LNR that the Plan has been developed and implemented within 180 days of the effective date of this Permit. Any existing Emergency Response and Public Notification Plan may be modified for compliance with this section.

D. Facility Planning Requirement

1. Design Criteria. The flows for the permitted facility must not exceed the following design criteria:

Table 2. Facility Planning Values

Facility Design Criteria	Value	Units
Maximum Monthly Flow	0.107	mgd

2. Plan for maintaining adequate capacity
- a) Conditions to trigger plan development
 - (i) Each month, the Permittee must record the average daily flow entering the facility for that month.
 - (ii) When the actual flow exceeds the facility planning values, listed in the table above, for any two months during a 12-month period, the Permittee must develop a new or updated Facility Plan and schedule for continuing to maintain capacity and maintain compliance with effluent limits.
 - b) Submittal. The plan must be submitted to LNR within 18 months of exceeding the trigger.
 - c) Plan and schedule content. The Plan and schedule must identify the actions necessary to maintain adequate capacity and to meet the limits and

requirements of the Permit. The Permittee must consider the following topics and actions in its Facility Plan:

- (i) Analysis of the present design and proposed process modifications;
- (ii) Reduction or elimination of excessive infiltration and inflow of uncontaminated ground and surface water into the sewer system;
- (iii) Limits on future sewer extensions or connections or additional waste loads;
- (iv) Modification or expansion of facilities; and,
- (v) Reduction of industrial or commercial flows or waste loads.

E. Industrial Waste Management

1. The Permittee must not authorize the introduction of pollutants that would inhibit, interfere, or otherwise be incompatible with operation of the treatment works including interference with the use or disposal of municipal sludge.
2. The Permittee must not authorize, under any circumstances, the introduction of the following pollutants to the POTW from any source of nondomestic discharge:
 - a) Any pollutant which may cause Pass Through or Interference;
 - b) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 60° C (140° F) using the test methods specified in 40 CFR 261.21;
 - c) Pollutants which will cause corrosive structural damage to the POTW, but in no case indirect discharges with a pH of lower than 5.0 s.u., unless the treatment facilities are specifically designed to accommodate such indirect discharges;
 - d) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, or other interference with the operation of the POTW;
 - e) Any pollutant, including oxygen demanding pollutants (e.g., BOD₅), released in an indirect discharge at a flow rate and/or pollutant concentration which will cause Interference with any treatment process at the POTW;
 - f) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at

- the POTW treatment plant exceeds 40° C (104° F) unless the EPA, upon request of the POTW, approves alternate temperature limits;
- g) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through at the POTW;
 - h) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - i) Any trucked or hauled pollutants, except at discharge points designated by the POTW; or,
 - j) Any specific pollutant which exceeds a local limitation established by the Permittee in accordance with the requirements of 40 CFR 403.5(c) and (d).
3. The Permittee must develop and maintain a master list of the industrial users introducing pollutants to the POTW. Industrial user means any source of indirect discharge from a non-domestic source. This list must identify:
- a) Names and addresses of all industrial users;
 - b) Which industrial users are significant industrial users (SIUs) (see Paragraph 5 of this Part);
 - c) Which SIUs are subject to categorical Pretreatment Standards (see 40 CFR 405-471);
 - d) Which standards are applicable to each industrial user;
 - e) Which industrial are subject to local standards that are more stringent than the categorical Pretreatment Standards; and
 - f) Which industrial users are subject only to local requirements.
4. The Permittee must submit this list, along with a summary description of the sources and information gathering methods used to develop this list, to the EPA within two (2) years following the effective date of the NPDES Permit.
5. For the purposes of this list development, the term SIU means:
- a) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and,
 - b) Any other industrial user that:

- (i) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - (ii) contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or,
 - (iii) is designated as such by EPA or the Permittee on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violation any Pretreatment Standard or requirement in accordance with 40 CFR 403.8(f)(6).
6. The Permittee must submit the list to the Director, Office of Compliance and Enforcement, with a copy to the NPDES Pretreatment Coordinator, at the following addresses:

US EPA Region 10
Attn: ICIS Data Entry Team
1200 6th Avenue, Suite 900 OCE-101
Seattle, Washington 98101-3140

US EPA Region 10
Pretreatment Coordinator
1200 6th Avenue, Suite 900 OWW-191
Seattle, WA 98101-3140

III. Monitoring, Recording and Reporting Requirements

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

1. Samples and measurements must be representative of the volume and nature of the monitored discharge.
2. In order to ensure that the required routine sampling does not overlook possible exceedances of Permit limits and requirements at other times, 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.
3. 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.
4. 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 Part III.C of this Permit. The Permittee must report all additional monitoring in accordance with Part III.D of this Permit.

B. Reporting of Monitoring Results

During the period between the effective date of the Permit and six (6) months from the effective date, 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.

After six (6) months from the effective date of the Permit has passed, the Permittee must submit monitoring data and other reports electronically using NetDMR.

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

1. Paper Copy Submissions. Monitoring data must be submitted using the DMR form (EPA No. 3320-1) or equivalent and must be postmarked by the 20th day of the month following the completed reporting period. The Permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Part V.E, of this Permit. The Permittee must submit the legible originals of these documents to the EPA Region 10 Director, Office of Compliance and Enforcement, with copies to the LNR, at the following addresses:

US EPA Region 10
Attn: ICIS Data Entry Team
1200 Sixth Avenue, Suite 900
OCE-101
Seattle, Washington 98101-3140

Lummi Natural Resources Department
Attn: Manager, Water Resources Division
2665 Kwina Road
Bellingham, WA 98226

2. Electronic Copy Submissions
 - a) Monitoring data must be submitted electronically to EPA no later than the 20th of the month following the completed reporting period. All reports required under this Permit must be submitted to EPA as a legible electronic attachment to the DMR. The Permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Part V.E of this Permit. Once a Permittee begins submitting reports using NetDMR, it will no

longer be required to submit paper copies of DMRs or other reports to the EPA and the LNR.

- b) The Permittee may use NetDMR after requesting and receiving permission from US EPA Region 10. NetDMR is accessed from <http://www.epa.gov/netdmr>.

C. Monitoring Procedures

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

D. Additional Monitoring by Permittee

If the Permittee monitors any pollutant more frequently than required by this Permit, using test procedures approved under 40 CFR 136 or as specified in this Permit, the Permittee must include the results of this monitoring in the calculation and reporting of the data submitted in the DMR.

Upon request by the EPA, the Permittee must submit results of any other sampling, regardless of the test method used.

E. Records Contents

Records of monitoring information must include:

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 the EPA or the LNR 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 following circumstances:
 - a) Any noncompliance that may endanger health or the environment;
 - b) Any unanticipated bypass that exceeds any effluent limitation in the Permit (See Part IV.F of this Permit);
 - c) Any upset that exceeds any effluent limitation in the Permit (See Part IV.G of this Permit); or,
 - d) Any violation of a maximum daily discharge limitation for applicable pollutants identified by Table 1 of Part I.B; or,
 - e) Any overflow prior to the treatment works over which the Permittee has ownership or has operational control. An overflow is any spill, release or diversion of municipal sewage including:
 - (i) An overflow that results in a discharge to waters of the United States; and,
 - (ii) An overflow of wastewater, including a wastewater backup into a building (other than a backup caused solely by a blockage or other malfunction in a privately owned sewer or building lateral) that does not reach waters of the United States.
2. The Permittee must also provide a written submission within five (5) days of the time that the Permittee becomes aware of any event required to be reported under Paragraph 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) the steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 - e) If the noncompliance involves an overflow, the written submission must contain:
 - (i) The location of the overflow;
 - (ii) The receiving water (if there is one);
 - (iii) An estimate of the volume of the overflow;
 - (iv) A description of the sewer system component from which the release occurred (e.g., manhole, constructed overflow pipe, crack in pipe);
 - (v) The estimated date and time when the overflow began and stopped or will be stopped;
 - (vi) The cause or suspected cause of the overflow;
 - (vii) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the overflow and a schedule of major milestones for those steps;
 - (viii) An estimate of the number of persons who came into contact with wastewater from the overflow; and,
 - (ix) Steps taken or planned to mitigate the impact(s) of the overflow and a schedule of major milestones for those steps.
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, at (206) 553-1846.
4. Reports must be submitted in paper form. The Permittee must sign and certify the report in accordance with the requirements of Part V.E of this Permit. The Permittee must submit the legible originals of these documents to the Director, Office of Compliance and Enforcement, and the LNR, at the addresses listed in Part III.B of this Permit.

H. Other Noncompliance Reporting

The Permittee must report all instances of noncompliance, other than those required to be reported within 24 hours, at the time that monitoring reports for Part III.B of this

Permit are submitted. The reports must contain the information listed in Paragraph III.G.2 above.

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.C of this Permit.

J. Notice of New Introduction of Toxic Pollutants

The Permittee must notify the EPA Region 10 Director of the Office of Water and Watersheds and the LNR in writing with:

1. Any new introduction of pollutants into the facility 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 facility 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 facility; and,
 - b) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the facility.
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-191
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 an application for Permit renewal.

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 USC § 2461 note) as amended by the Debt Collection Improvement Act (31 USC § 3701 note) (currently \$37,500 per day for each violation).
2. **Administrative Penalties.** Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR Part 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 USC § 2461 note) as amended by the Debt Collection Improvement Act (31 USC § 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 Part 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 USC § 2461 note) as amended by the Debt Collection Improvement Act (31 USC § 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 \$187,500).
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

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.

1. 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 of this Permit.
2. Prohibition of bypass.
 - a) Bypass is prohibited, and the EPA Region 10 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 EPA Region 10 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 of this Permit; and,
 - d) The Permittee complied with any remedial measures required under Part IV.D of this Permit.
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 EPA Region 10 Director of the Office of Water and Watersheds as specified in Paragraph III.J.4 of this Permit, and to the LNR as soon as possible with 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);
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; or,
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 EPA Region 10 Office of Compliance and Enforcement, and the LNR, of any planned changes in the permitted facility or activity that may result in noncompliance with this Permit.

K. Reopener

This Permit may be reopened to include any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the Act. The Director may modify or revoke and reissue the Permit if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the Permit, or controls a pollutant or practice not limited in the 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 provide, within the time frame specified, any information that the EPA or the LNR may request in order 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 provide EPA or the LNR, upon request, with copies of records required to be kept by this Permit.

D. Other Information

When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to the EPA or the LNR, it must promptly submit the omitted facts or corrected information in writing.

E. Signatory Requirements

All applications, reports or information submitted to the EPA and the LNR must be signed and certified.

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 LNR 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 LNR.
3. Changes to authorization. If an authorization under Paragraph 2 of this Part 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 Paragraph 2 of this Part must be submitted to the Director of the Office of Compliance and Enforcement and the LNR prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this Part must make the following certification:

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

F. Availability of Reports

In accordance with 40 CFR Part 2, information submitted to the 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, the 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 the Federal Register (FR) at 41 FR 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 Lummi Natural Resources Department; 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. Tribal 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 tribal 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. “Average weekly discharge limitation” means the highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all “daily discharges” measured during a calendar week divided by the number of “daily discharges” measured during that week.
5. “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.
6. “Composite” - see “24-hour composite”.
7. “Daily discharge” means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the “daily discharge” is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the day.
8. “Director of the Office of Compliance and Enforcement” means the Director of the Office of Compliance and Enforcement, EPA Region 10, or an authorized representative.
9. “Director of the Office of Water and Watersheds” means the Director of the Office of Water and Watersheds, EPA Region 10, or an authorized representative.

10. “DMR” means discharge monitoring report.
11. “EPA” means the United States Environmental Protection Agency.
12. “Geometric Mean” means the n^{th} root of a product of n factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.
13. “Grab” sample is an individual sample collected over a period of time not exceeding 15 minutes.
14. “Interference” means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both: 1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and 2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.
15. “Maximum daily discharge limitation” means the highest allowable “daily discharge.”
16. “Minimum Level (ML)” means the concentration at which the entire analytical system must give a recognizable signal and an acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method-specified sample weights, volumes and processing steps have been followed.
17. “NPDES” means National Pollutant Discharge Elimination System, the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits. under sections 307, 402, 318, and 405 of the Act.
18. “Pass Through” means a Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES Permit (including an increase in the magnitude or duration of a violation).

19. Receiving Water Concentration (RWC) is the concentration of a toxicant or effluent in the receiving water after mixing. The RWC is the inverse of the dilution factor. It is sometimes referred to as the in-stream waste concentration (IWC).
20. “QA/QC” means quality assurance/quality control.
21. “Regional Administrator” means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.
22. “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.
23. “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.
24. “24-hour composite” sample means a combination of at least 8 discrete sample aliquots of at least 100 milliliters, collected over periodic intervals from the same location, during the operating hours of a facility over a 24 hour period. The composite must be flow proportional. The sample aliquots must be collected and stored in accordance with procedures prescribed in the most recent edition of Standard Methods for the Examination of Water and Wastewater.

Appendix A: Minimum Levels

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

Table 3. Minimum Levels

Pollutant & CAS No. (if available)	Minimum Level (ML) µg/L unless specified
Biochemical oxygen demand	2 mg/L
Chlorine, total residual (7782-50-5)	50.0
Dissolved oxygen (DO)	0.2 mg/L
Mercury, total (7439-97-6)	0.0005
Nitrate + nitrite nitrogen (as N)	100
Nitrogen, total Kjeldahl (as N) (7727-37-9)	300
Oil and grease (HEM) (hexane extractable material)	5,000
pH	N/A
Phosphorus, total (as P)	10
Soluble reactive phosphorus (as P)	10
Temperature	0.2° C
Total ammonia (as N) (7664-41-7)	50
Total dissolved solids (TDS)	20 mg/L
Total suspended solids (TSS)	5 mg/L