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 Toppenish
501 Annahat Road
Toppenish, WA 98948

is authorized to discharge from the wastewater treatment plant located in Toppenish, WA, at the following location(s):

Outfall	**Receiving Water**	**Latitude**	**Longitude**
001	Toppenish Drain	46° 22' 7"	120° 16' 59"

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

This permit shall become effective

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

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

Signed this day of

Draft
Daniel D. Opalksi, Director
Office of Water and Watersheds

Draft Permit. This document does not authorize a discharge.

Schedule of Submissions

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

Item	Due Date
1. Discharge Monitoring Reports (DMR)	DMRs are due monthly and must be postmarked on or before the 10th day of the month following the monitoring month.
2. Quality Assurance Plan (QAP)	The permittee must provide EPA and the Yakama Nation Environmental Protection Program with written notification that the Plan has been developed and implemented within 180 days after the effective date of the final permit (see I.C). The Plan must be kept on site and made available to EPA and the Yakama Nation Environmental Protection Program upon request.
3. Operation and Maintenance (O&M) Plan	The permittee must provide EPA and the Yakama Nation Environmental Protection Program with written notification that the Plan has been developed and implemented within 180 days after the effective date of the final permit (see II.C). The Plan must be kept on site and made available to EPA and the Yakama Nation Environmental Protection Program upon request.
4. NPDES Application Renewal	The application must be submitted at least 180 days before the expiration date of the permit (see V.B).
5. Surface Water Monitoring Report	The Report must be submitted annually, with the December discharge monitoring report.
6. Compliance Schedule	Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date (see III.J).
7. Twenty-Four Hour Notice of Noncompliance Reporting	The permittee must report certain occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances. (See III.G and I.B.2).
8. 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 EPA and the Yakama Nation Environmental Protection Program that the plan has been developed and implemented within 180 days of the effective date of the final permit.

Table of Contents

Schedule of Submissions **2**

I. Limitations and Monitoring Requirements **5**

A. Discharge Authorization 5
B. Effluent Limitations and Monitoring 5
C. Whole Effluent Toxicity Testing Requirements 8
D. Surface Water Monitoring 11

II. Special Conditions **13**

A. Operation and Maintenance Plan 13
B. Quality Assurance Plan (QAP) 13
C. Facility Planning Requirement 14
D. Schedules of Compliance 14
E. Control of Undesirable Pollutants and Industrial Users 14
F. Emergency Response and Public Notification Plan 15

III. Monitoring, Recording and Reporting Requirements **16**

A. Representative Sampling (Routine and Non-Routine Discharges) 16
B. Reporting of Monitoring Results 16
C. Monitoring Procedures 17
D. Additional Monitoring by Permittee 17
E. Records Contents 17
F. Retention of Records 18
G. Twenty-four Hour Notice of Noncompliance Reporting 18
H. Other Noncompliance Reporting 19
I. Public Notification 19
J. Notice of New Introduction of Toxic Pollutants 20
K. Compliance Schedules 20

IV. Compliance Responsibilities **20**

A. Duty to Comply 20
B. Penalties for Violations of Permit Conditions 20
C. Need To Halt or Reduce Activity not a Defense 22
D. Duty to Mitigate 22
E. Proper Operation and Maintenance 22
F. Bypass of Treatment Facilities 22
G. Upset Conditions 23
H. Toxic Pollutants 24
I. Planned Changes 24
J. Anticipated Noncompliance 24
K. Reopener 24

V. General Provisions **25**

A. Permit Actions 25
B. Duty to Reapply 25

C. Duty to Provide Information 25
D. Other Information 25
E. Signatory Requirements 25
F. Availability of Reports 26
G. Inspection and Entry 26
H. Property Rights 27
I. Transfers 27
J. State Laws 27

VI. Definitions 27

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 Toppenish Drain, 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: Effluent Limitations and Monitoring Requirements

Parameter	Units	Effluent Limitations			Monitoring Requirements		
		Average Monthly Limit	Average Weekly Limit	Maximum Daily Limit	Sample Location	Sample Frequency	Sample Type
Flow	mgd	Report	—	Report	Effluent	Daily	Measure
Biochemical Oxygen Demand (BOD_5)	mg/L	30	45	—	Influent and Effluent	1/2 weeks	24-Hour Composite
	lb/day	440	661	—			Calculation
	% Removal	85 % (minimum)	—	—		1/month	Calculation
Total Suspended Solids (TSS)	mg/L	30	45	—	Influent and Effluent	1/2 weeks	24-Hour Composite
	lb/day	440	661	—			Calculation
	% Removal	85% (minimum)	—	—		1/month	Calculation
pH	s.u.	6.5 – 8.5 at all times			Effluent	5/week	Grab
Fecal Coliform[1]	#/100 ml	100 (geometric mean)	—	200	Effluent	1/week	Grab
Total Ammonia as N[1]	mg/L	1.32	—	2.244	Effluent	1/2 weeks	24-Hour Composite
	lb/day	19.4	—	35.53			Calculation
Nitrate + Nitrite as N	mg/L	10.5	19.8	—	Effluent	1/week	24-Hour Composite
	lb/day	154	291	—			Calculation
Total Phosphorus as P[4] (March – October, Interim)	lb/day	56	149	—	Effluent	1/week	24-Hour Composite
Total Phosphorus as P[4] (March – October, Final)	lb/day	14.7	34.1	—	Effluent	1/week	24-Hour Composite
Copper, Total Recoverable[1]	µg/L	6.80	—	10.34	Effluent	1/month	24-Hour Composite
	lb/day	0.10	—	0.165			Calculation

Table 1: Effluent Limitations and Monitoring Requirements

Parameter	Units	Effluent Limitations			Monitoring Requirements		
		Average Monthly Limit	Average Weekly Limit	Maximum Daily Limit	Sample Location	Sample Frequency	Sample Type
Lead, Total Recoverable[1] (May – September)	µg/L	3.54	—	9.96	Effluent	1/month	24-Hour Composite
	lb/day	0.0520	—	0.146			Calculation
Lead, Total Recoverable[1,4] (October – April, Interim)	µg/L	3.4	—	6.2	Effluent	1/month	24-Hour Composite
	lb/day	0.050	—	0.091			Calculation
Lead, Total Recoverable[1,4] (October – April, Final)	µg/L	2.17	—	6.10	Effluent	1/week	24-Hour Composite
	lb/day	0.0319	—	0.0895			Calculation
Selenium[1] (May – September)	µg/L	7.87	—	17.3	Effluent	1/month	24-Hour Composite
	lb/day	0.116	—	0.254			Calculation
Selenium[1] (October – April)	µg/L	4.83	—	10.6	Effluent	1/week	24-Hour Composite
	lb/day	0.0709	—	0.156			Calculation
Zinc, Total Recoverable[1]	µg/L	49.6	—	98.3	Effluent	1/month	24-Hour Composite
	lb/day	0.73	—	1.44			Calculation
Temperature	°C	Report	—	Report	Effluent	2/week	Grab
Dissolved Oxygen	mg/L	Report minimum and monthly average effluent DO			Effluent	1/month	Grab
Hardness	mg/L as $CaCO_3$	Report	—	Report	Effluent	1/quarter[2]	24-Hour Composite
Alkalinity	mg/L as $CaCO_3$	Report	—	Report	Effluent	1/quarter[2]	24-Hour Composite
Arsenic, Total Recoverable	µg/L	Report	—	Report	Effluent	Semi-annually[3]	24-Hour Composite
Nickel, Total Recoverable	µg/L	Report	—	Report	Effluent	Semi-annually[3]	24-Hour Composite
Silver, Total Recoverable	µg/L	Report	—	Report	Effluent	Semi-annually[3]	24-Hour Composite
Oil and Grease	mg/L	Report	—	Report	Effluent	1/quarter[2]	Grab
Total Dissolved Solids	mg/L	Report	—	Report	Effluent	1/quarter[2]	24-Hour Composite
Total Kjeldahl Nitrogen	mg/L	Report	—	Report	Effluent	1/quarter[2]	24-Hour Composite
Benzene	µg/L	Report	—	Report	Effluent	Semi-annually[3]	24-Hour Composite
Methylene Chloride	µg/L	Report	—	Report	Effluent	Semi-annually[3]	24-Hour Composite
NPDES Application Form 2A Expanded Effluent Testing	mg/L	Report	—	—	Effluent	3x/5 years	—
Chronic Whole Effluent Toxicity	mg/L	Report	—	—	Effluent	See I.C.2.	24-Hour Composite

Table 1: Effluent Limitations and Monitoring Requirements

Parameter	Units	Effluent Limitations			Monitoring Requirements		
		Average Monthly Limit	Average Weekly Limit	Maximum Daily Limit	Sample Location	Sample Frequency	Sample Type

Notes:
1. Reporting is required within 24 hours of a maximum daily limit violation. See Parts I.B.2 and III.G.
2. Quarters are defined as January – March, April through June, July – September, and October – December. Monitoring results for pollutants with a sample frequency of quarterly must be reported on the March, June, September and December DMRs.
3. Sampling to be performed semi-annually must be performed at least once from January – June and at least once from July – December. Monitoring results for pollutants with a sample frequency of semi-annually must be reported on the June and December DMRs.
4. Effluent limits for total phosphorus and the October – April limits for lead are subject to a compliance schedule. See II.D.

2. The permittee must report within 24 hours any violation of the maximum daily limits for the following pollutants: E. coli, total ammonia as N, copper, lead, selenium, and zinc. 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 permittee must not discharge any floating solids, visible foam in other than trace amounts, or oily wastes that produce a sheen on the surface of the receiving water.
4. The permittee must not use chlorine for disinfection or elsewhere in the treatment process.
5. The permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
6. Minimum Levels. For all effluent monitoring, the permittee must use methods that can achieve a minimum level (ML) less than the effluent limitation. For parameters that do not have effluent limitations, the permittee must use methods that can achieve MLs less than or equal to those specified in Table 2 in Part I.D. 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}.”
7. For purposes of calculating monthly averages, except for fecal coliform, 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.

C. Whole Effluent Toxicity Testing Requirements

The permittee must conduct chronic toxicity tests on effluent samples from outfall 001. Testing must be conducted in accordance with subsections 1 through 7, below.

1. Toxicity testing must be conducted on 24-hour composite samples of effluent. In addition, a split of each sample collected must be analyzed for the chemical and physical parameters required in Part I.B, above, with a required sampling frequency of once per quarter or more frequently, using the sample type required in Part I.B. For parameters for which grab samples are required in Part I.B, grab samples must be taken during the same 24-hour period as the 24-hour composite sample used for the toxicity tests. When the timing of sample collection coincides with that of the sampling required in Part I.B, analysis of the split sample will fulfill the requirements of Part I.B as well.

2. Chronic Test Species and Methods

   a) For outfall 001, chronic tests must be conducted twice per year, once between January 1st and June 30th and once between July 1st and December 31st.

   b) The permittee must conduct the following two chronic toxicity tests on each sample, using the species and protocols in Table 2:

Table 2: Toxicity Test Species and Protocols

Freshwater Acute Toxicity Tests	Species	Method
Fathead minnow larval survival and growth test (method 1000.0)	*Pimephales promelas*	EPA-821-R-02-013
Daphnid survival and reproduction test (method 1002.0)	*Ceriodaphnia dubia*	EPA-821-R-02-013

   c) The presence of chronic toxicity must be determined as specified in *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA/821-R-02-013, October 2002.

   d) Results must be reported in TU_c (chronic toxic units), which is defined as follows:

      (i) For survival endpoints, $TU_c = 100/NOEC$.

      (ii) For all other test endpoints, $TU_c = 100/IC_{25}$.

      (iii) IC_{25} means "25% inhibition concentration." The IC_{25} is a point estimate of the toxicant concentration, expressed in percent effluent, that causes a 25% reduction in a non-quantal biological measurement (e.g., reproduction or growth) calculated from a continuous model (e.g., Interpolation Method).

      (iv) NOEC means "no observed effect concentration." The NOEC is the highest concentration of toxicant, expressed in percent effluent, to which organisms are exposed in a chronic toxicity test [full life-cycle or partial life-cycle (short term) test], that causes no observable adverse effects on the test organisms (i.e., the highest concentration of

effluent in which the values for the observed responses are not statistically significantly different from the controls).

3. Quality Assurance

   a) The toxicity testing on each organism must include a series of five test dilutions and a control. The dilution series must include the receiving water concentration (RWC), which is the dilution associated with the chronic toxicity trigger, two dilutions above the RWC, and two dilutions below the RWC. The RWC is 81.4% effluent.

   b) All quality assurance criteria and statistical analyses used for chronic tests and reference toxicant tests must be in accordance with *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA/821-R-02-013, October 2002, and individual test protocols.

   c) In addition to those quality assurance measures specified in the methodology, the following quality assurance procedures must be followed:

      (i) If organisms are not cultured in-house, concurrent testing with reference toxicants must be conducted. If organisms are cultured in-house, monthly reference toxicant testing is sufficient. Reference toxicant tests must be conducted using the same test conditions as the effluent toxicity tests.

      (ii) If either of the reference toxicant tests or the effluent tests do not meet all test acceptability criteria as specified in the test methods manual, the permittee must re-sample and re-test within 14 days of receipt of the test results.

      (iii) Control and dilution water must be receiving water or lab water, as appropriate, as described in the manual. If the dilution water used is different from the culture water, a second control, using culture water, must also be used. Receiving water may be used as control and dilution water upon notification of EPA and IDEQ. In no case shall water that has not met test acceptability criteria be used for either dilution or control.

4. Reporting

   a) The permittee must submit the results of the toxicity tests with the discharge monitoring reports (DMRs). Toxicity tests taken from January 1st through June 30th must be reported on the August DMR. Toxicity tests taken from June 1st through December 31st must be reported on the DMR for the following February.

   b) The report of toxicity test results must include all relevant information outlined in Section 10, Report Preparation, of *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA/821-R-02-013, October 2002. In addition to toxicity test results, the permittee must report: dates of sample

collection and initiation of each test; flow rate at the time of sample collection; and the results of the monitoring required in Part I.B of this permit, for parameters with a required monitoring frequency of once per quarter or more frequently.

5. Preparation of initial investigation toxicity reduction evaluation (TRE) workplan: Prior to initiation of the toxicity testing required by this permit, the permittee must submit to EPA a copy of the permittee's initial investigation TRE workplan. This plan shall describe the steps the permittee intends to follow in the event that chronic toxicity is detected above 1.23 TU_c, and must include at a minimum:

   a) A description of the investigation and evaluation techniques that would be used to identify potential causes/sources of toxicity, effluent variability, treatment system efficiency;

   b) A description of the facility's method of maximizing in-house treatment efficiency, good housekeeping practices, and a list of all chemicals used in operation of the facility; and

   c) If a toxicity identification evaluation (TIE) is necessary, who will conduct it (i.e., in-house or other).

   d) The initial investigation TRE workplan must be sent to the following address:

      US EPA Region 10
      Attn: NPDES WET Coordinator
      1200 Sixth Avenue
      Suite 900 OWW-130
      Seattle, WA 98101-3140

6. Accelerated testing: If chronic toxicity is detected above 1.23 TUc, the permittee must comply with the following:

   a) The permittee must implement the initial investigation TRE workplan within 48-hours of the permittee's receipt of the toxicity results demonstrating the exceedance.

   b) The permittee must conduct six more bi-weekly (every two weeks) chronic toxicity tests, over a 12-week period. This accelerated testing shall be initiated within 10 calendar days of receipt of the test results indicating the initial exceedance.

   c) The permittee must notify EPA of the exceedance in writing at the address in Part I.C.5.d, above, within 5 calendar days of receipt of the test results indicating the exceedance. The notification must include the following information:

      (i) A status report on any actions required by the permit, with a schedule for actions not yet completed.

      (ii) A description of any additional actions the permittee has taken or will take to investigate and correct the cause(s) of the toxicity.

(iii) Where no actions have been taken, a discussion of the reasons for not taking action.

d) If implementation of the initial investigation workplan clearly identifies the source of toxicity to the satisfaction of EPA (e.g., a temporary plant upset), and none of the six accelerated chronic toxicity tests required under Part I.C.6.b are above 1.23 TUc, the permittee may return to the regular chronic toxicity testing cycle specified in Part I.C.2.a.

7. Toxicity Reduction Evaluation (TRE)

a) If implementation of the initial investigation workplan does not clearly identify the source of toxicity to the satisfaction of EPA, or any of the six accelerated chronic toxicity tests indicate toxicity above 1.23 TUc, then the permittee must begin implementation of the toxicity reduction evaluation (TRE) requirements below. Implementation of the TRE requirements shall begin within 10 calendar days of receipt of the accelerated chronic toxicity testing results demonstrating the exceedance.

b) In accordance with the permittee's initial investigation workplan and EPA manual EPA 833-B-99-002 (*Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants*), the permittee must develop as expeditiously as possible a more detailed TRE workplan, which includes:

(i) Further actions to investigate and identify the cause of toxicity;

(ii) Actions the permittee will take to mitigate the impact of the discharge and to prevent the recurrence of toxicity; and

(iii) A schedule for these actions.

c) The permittee may initiate a TIE as part of the overall TRE process described in the EPA acute and chronic TIE manuals EPA/600/6-91/005F (Phase I), EPA/600/R-92/080 (Phase II), and EPA-600/R-92/081 (Phase III).

d) If a TIE is initiated prior to completion of the accelerated testing, the accelerated testing schedule may be terminated, or used as necessary in performing the TIE.

D. Surface Water Monitoring

The permittee must conduct surface water monitoring. Surface water monitoring must start within 90 days after the effective date of the permit and continue for as long as the permit remains in effect. The program must meet the following requirements:

1. Monitoring stations must be established in the Toppenish Drain at the following locations:

a) Above the influence of the facility's discharge, and

b) Below the facility's discharge, at a point where the effluent and the Toppenish Drain are completely mixed.

2. The permittee must seek approval of the surface water monitoring stations from the Yakama Nation Environmental Protection Program.
3. A failure to obtain the Yakama Nation Environmental Protection Program approval of surface water monitoring stations does not relieve the permittee of the surface water monitoring requirements of this permit.
4. To the extent practicable, surface water sample collection must occur on the same day as effluent sample collection.
5. The flow rate must be measured as near as practicable to the time that other ambient parameters are sampled.
6. Samples must be analyzed for the parameters listed in Table 3, and must achieve method detection limits (MDLs) that are equivalent to or less than those listed in Table 3. The permittee may request different MDLs. The request must be in writing and must be approved by the Director of the Office of Water and Watersheds.

Table 3: Receiving Water Monitoring Requirements

Parameter and Units	Locations	Sample Frequency	Sample Type	Maximum MDL
Flow (mgd)	Upstream	1/month	Measure	—
Total phosphorus as P (µg/L)	Upstream and downstream	1/quarter[2]	Grab	10
Total nitrogen as N (mg/L)	Upstream and downstream	1/quarter[2]	Grab	0.1
Temperature (°C)	Upstream and downstream	1/month[1]	Grab	—
pH (s.u.)	Upstream and downstream	1/quarter[2]	Grab	—
Hardness (mg/L as $CaCO_3$)	Downstream	1/quarter[2]	Grab	—

Notes:
1. Temperature monitoring must occur once per month during June, July, August, and September.
2. Quarters are defined as January – March, April – June, July – September, and October – December.

7. Quality assurance/quality control plans for all the monitoring must be documented in the Quality Assurance Plan required under Part II.B., "Quality Assurance Plan".
8. Surface water monitoring results must be submitted to EPA and the Yakama Nation Environmental Protection Program on the discharge monitoring reports. Receiving water monitoring with a frequency of once per month must be reported on the DMR for the month in which data were collected. Receiving water monitoring with a frequency of quarterly must be reported on the DMR for the last month of the quarter in which data were collected. In addition to reporting on the DMR, the permittee must submit an annual surface water monitoring report to EPA and the Yakama Nation Environmental Protection Program. At a minimum, the annual surface water monitoring report must include the following:
   a) Dates of sample collection and analyses.
   b) Results of sample analysis.
   c) Relevant quality assurance/quality control (QA/QC) information.

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), by 180 days after the effective date of this permit, the permittee must provide written notice to EPA and the Yakama Nation Environmental Protection Program that an operations and maintenance (O&M) plan for the current wastewater treatment facility has been developed and implemented within 180 days of the effective date of this permit. The plan shall be retained on site and made available on request to EPA and the Yakama Nation Environmental Protection Program. Any changes occurring in the operation of the plant shall be reflected within the O&M plan.

B. Quality Assurance Plan (QAP)

The permittee must develop and implement a quality assurance plan (QAP) for all monitoring required by this permit. The permittee must submit written notice to EPA and the Yakama Nation Environmental Protection Program that the Plan has been developed and implemented within 180 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 Yakama Nation Environmental Protection Program upon request.

C. Facility Planning Requirement

Each month, the permittee must compute an annual average value for flow based on the previous twelve months data. The annual average flow must be calculated as the sum of all the daily flow measurements taken during the previous twelve months divided by the number of daily flow measurements taken during the previous twelve months.

When the annual average of the daily flow exceeds 1.496 mgd, which is 85% of the facility design flow of 1.76 mgd, the permittee must develop a facility plan and schedule within one year from the date of the first exceedence. The plan must include the permittee's strategy for continuing to maintain compliance with effluent limits and must be made available to the Director or authorized representative upon request.

D. Schedules of Compliance

1. The permittee must comply with all effluent limitations and monitoring requirements in Part I.B of this permit immediately upon the effective date of this permit except the effluent limitations for total phosphorus as P and the effluent limits for total recoverable lead in effect from October – April.
2. The permittee must achieve compliance with the effluent limits for total phosphorus as P no later than one year after the effective date of the final permit.
3. The permittee must achieve compliance with the effluent limits for total recoverable lead for October – April no later than four years and eleven months after the effective date of the final permit.
4. The permittee must submit an Annual Report of Progress which outlines the progress made towards reaching the compliance date for the October – April total recoverable lead effluent limitations. The first report is due one year after the effective date of the final permit and annually thereafter, until compliance with the October – April total recoverable lead effluent limits is achieved. See also Part III.J., "Compliance Schedules". At a minimum, the annual report must include:
   a) An assessment of the previous year of total recoverable lead data for April – October and comparison to the effluent limitations.
   b) Actions taken during the past year to achieve compliance with the total recoverable lead effluent limits.
   c) Further actions and milestones targeted for the upcoming year.

E. Control of Undesirable Pollutants and Industrial Users

1. The permittee must require any industrial user discharging to its treatment works to comply with any applicable requirements of 40 CFR 403 through 471.
2. The permittee must not allow introduction of the following pollutants into the POTW:
   a) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140

degrees Fahrenheit (°F) or 60 degrees Centigrade (°C) using the test methods specified in 40 CFR 261.21.

b) Pollutants which will cause corrosive structural damage to the POTW, but in no case Discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such Discharges.

c) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in Interference.

d) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW.

e) 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 ºC (104 ºF) unless the Director of the Office of Water and Watersheds, upon request of the POTW, approves alternate temperature limits.

f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

g) 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.

h) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

i) Any pollutant which causes Pass Through or Interference.

F. 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 and are appropriately trained; and

e) Provide emergency operations.

2. The permittee must submit written notice to EPA and the Yakama Nation Environmental Protection Program 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.

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 the Yakama Nation Environmental Protection Program at the following addresses:

US EPA Region 10

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

Yakama Nation Environmental Protection Program
Department of Natural Resources
P.O. Box 151
Toppenish, WA 98948

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 the Yakama Nation Environmental Protection Program.

   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 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 Yakama Nation Environmental Protection Program at any time.

G. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee must report the following occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances:
   a) any noncompliance that may endanger health or the environment;
   b) any unanticipated bypass that exceeds any effluent limitation in the permit (See Part IV.F., "Bypass of Treatment Facilities");
   c) any upset that exceeds any effluent limitation in the permit (See Part IV.G., "Upset Conditions"); or
   d) any violation of a maximum daily discharge limitation for applicable pollutants identified by Part I.B.2.
   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 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.

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, (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 Yakama Nation Environmental Protection Program 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

K. Compliance Schedules

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

IV. Compliance Responsibilities

A. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application.

B. Penalties for Violations of Permit Conditions

1. Civil and Administrative Penalties. Pursuant to 40 CFR Part 19 and the Act, any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461

note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $37,500 per day for each violation).

2. Administrative Penalties. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $16,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $37,500). Pursuant to 40 CFR 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $16,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $177,500).

3. Criminal Penalties:

   a) Negligent Violations. The Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

   b) Knowing Violations. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both.

   c) Knowing Endangerment. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to

a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions.

d) False Statements. The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

C. Need To Halt or Reduce Activity not a Defense

It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this permit.

D. Duty to Mitigate

The permittee must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance

The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Bypass of Treatment Facilities

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this 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 Yakama Nation Environmental Protection Program 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 Yakama Nation Environmental Protection Program 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 furnish to EPA and the Yakama Nation Environmental Protection Program, within the time specified in the request, any information that EPA or the Yakama Nation Environmental Protection Program 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 Yakama Nation Environmental Protection Program, 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 Yakama Nation Environmental Protection Program, 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 Yakama Nation Environmental Protection Program 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 Yakama Nation Environmental Protection Program 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 Yakama Nation Environmental Protection Program.

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 Yakama Nation Environmental Protection Program 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 Yakama Nation Environmental Protection Program; 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. 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. "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. "Chronic toxic unit" ("TUc") is a measure of chronic toxicity. TUc is the reciprocal of the effluent concentration that causes no observable effect on the test organisms by the end of the chronic exposure period (i.e., 100/"NOEC").
7. "Composite" - see "24-hour composite".
8. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.
9. "Director of the Office of Compliance and Enforcement" means the Director of the Office of Compliance and Enforcement, EPA Region 10, or an authorized representative.
10. "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.
11. "DMR" means discharge monitoring report.
12. "EPA" means the United States Environmental Protection Agency.
13. "Geometric Mean" means the nth root of a product of n factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.
14. "Grab" sample is an individual sample collected over a period of time not exceeding 15 minutes.
15. "Inhibition concentration", IC, is a point estimate of the toxicant concentration that causes a given percent reduction (p) in a non-quantal biological measurement (e.g., reproduction or growth) calculated from a continuous model (e.g., Interpolation Method).
16. "Interference" is defined in 40 CFR 403.3.
17. "Maximum daily discharge limitation" means the highest allowable "daily discharge."
18. "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.

19. “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.
20. “NOEC” means no observed effect concentration. The NOEC is the highest concentration of toxicant (e.g., effluent) to which organisms are exposed in a chronic toxicity test [full life-cycle or partial life-cycle (short term) test], that causes no observable adverse effects on the test organisms (i.e., the highest concentration of effluent in which the values for the observed responses are not statistically significantly different from the controls).
21. “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.
22. “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).
23. “QA/QC” means quality assurance/quality control.
24. “Regional Administrator” means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.
25. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
26. “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
27. “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.