United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et seq*., as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act",

Lummi Indian Business Council
Sandy Point Wastewater Treatment Plant
4369 Germaine Road
Ferndale, WA 98248

is authorized to discharge from the Sandy Point Wastewater Treatment Plant located on the Lummi Indian Reservation near Bellingham, Washington, at the following location:

Outfall	**Receiving Water**	**Latitude**	**Longitude**
001	Strait of Georgia	48° 48' 56" N (48.8155556)	122 ° 42' 57" W (-122.7158333)

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

This permit will become effective ***insert date***

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

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

Signed this day of

_____draft_____
Michael A. Bussell, Director
Office of Water and Watersheds
U.S. Environmental Protection Agency

Schedule of Submissions

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

Item	Due Date
1. Discharge Monitoring Reports (DMR)	DMRs are due **monthly** and must be postmarked on or before the **10th day of the following month**.
2. Quality Assurance Plan (QAP)	The Permittee must provide EPA with annual written notification that the information in the Plan is current and has been reviewed with operations staff (see II.B.). The Plan must be kept on site and made available to EPA upon request.
3. NPDES Application Renewal	The application must be submitted at least **180 days** before the expiration date of the permit. (See V.B.)
4. 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.)
5. 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 that the plan has been developed and implemented within **180 days** of the effective date 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 outfall specified herein to the **Strait of Georgia**, 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. 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	Effluent Limitations				Monitoring Requirements		
	Average Monthly Limit	Average Weekly Limit	Max Daily Limit	Instantaneous Maximum Limit	Sample Location	Sample Frequency	Sample Type
Flow, mgd	--	--	--	--	Effluent	continuous	recording
Biochemical Oxygen Demand (BOD_5)	30 mg/l	45 mg/l	--	--	Influent and Effluent	1/week	24 hr composite
	63 lbs/day[1]	94 lbs/day[1]	--	--			
	≥ 85% removal	--	--	--			
Total Suspended Solids (TSS)	30 mg/l	45 mg/l	--	--	Influent and Effluent	1/week	24 hr composite
	63 lbs/day	94 lbs/day	--	--			
	≥ 85% removal	--	--	--			
Fecal Coliform Bacteria[2]	200/100 ml	400/100 ml	--	--	Effluent	1/week	grab
Total Residual Chlorine[3,4]	0.23 mg/L	--	0.65 mg/L	--	Effluent	daily	grab
pH	within the range of 6.0 and 9.0 standard units				Effluent	daily	grab
Total Ammonia[5] (mg/L N)	--				Effluent	Quarterly (for one year)	24 hr composite

Table 1: Effluent Limitations and Monitoring Requirements

Parameter	Effluent Limitations				Monitoring Requirements		
	Average Monthly Limit	Average Weekly Limit	Max Daily Limit	Instantaneous Maximum Limit	Sample Location	Sample Frequency	Sample Type
Nitrate-Nitrite[5] Nitrogen (mg/L N)	--				Effluent	Quarterly (for one year)	24 hr composite
Total Kjeldahl Nitrogen[5] (TKN) (mg/L N)	--				Effluent	Quarterly (for one year)	24 hr composite
Effluent testing as required by Form 2A Part B.6.	--				See item I.B.10 below.		

1. Mass loading (lbs/day) = Concentration (mg/l) x flow (mgd) x 8.34 lbs-l/gallon-mg.

2. Monthly average and weekly average must be measured as a geometric mean. No more than 10 percent of samples used to calculate the monthly average can exceed 200/100 ml. See Section VI for a definition of geometric mean.

3. Reporting is required within 24 hours of a maximum daily limit or instantaneous maximum limit violation. See Sections I.B.2. and III.G.

4. If the Permittee ceases to use chlorination as its disinfection method, it may apply to EPA to discontinue chlorine monitoring.

5. The duration of expanded nutrients monitoring is one year. The data is to be submitted to EPA within 60 days of completing the four quarters of expanded nutrients monitoring. The Permittee must space quarterly sampling events to ensure results reflect seasonal variations in effluent quality.

2. The Permittee must report within 24 hours any violation of the maximum daily limits for the following pollutants: **total residual chlorine.** Violations of all other effluent limits are to be reported at the time that discharge monitoring reports are submitted (See III.B. and III.H.).

3. The 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 pH must not be less than **6.0 standard units** (s.u.) nor greater than **9.0 standard units** (s.u.).

5. Removal Requirements for BOD_5 and TSS: At least 85% of the monthly average influent concentrations of both BOD_5 and TSS must be removed. Percent removals of BOD_5 and TSS must be reported on the Discharge Monitoring Reports (DMRs). For each parameter, 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. Influent and effluent samples must be taken over approximately the same time period.

6. The Permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
7. For all effluent monitoring, the Permittee must use methods that can achieve a minimum level (ML) less than the effluent limitation.
8. 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}."
9. 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.
10. **The permittee must perform the effluent testing required by Part B.6 of the NPDES application Form 2A (EPA Form 3510-2A, revised 1-99) and Table 1, above.** The permittee must submit the results of this testing with its application for renewal of this NPDES permit. To the extent that effluent monitoring required by other conditions of this permit satisfies this requirement, these samples may be used to satisfy the requirements of this paragraph.

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 that an operations and maintenance plan for the wastewater treatment facility has been developed and implemented. The plan must be retained on site and made available on request to EPA.

B. Quality Assurance Plan (QAP)

The Permittee must **update** the quality assurance plan (QAP) required by the previous permit for compliance with this section and to reflect all monitoring required by this permit within 180 days of permit issuance. The Permittee must also certify to EPA that the QAP is being implemented and is reviewed with staff annually. Annual reviews will be registered with EPA by submittal of the staff attendance sheet used for the review sessions, along with a cover letter confirming the QAP review and identifying the enclosed attendance record. The annual QAP review letter and attendance sheet must be submitted with the January DMR of each subsequent year.

1. The QAP must be designed to assist in planning for the collection and analysis of samples in support of the permit and in explaining data anomalies when they occur.
2. Throughout all sample collection and analysis activities, the Permittee must use the EPA-approved QA/QC and chain-of-custody procedures described in *Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). The QAP must be prepared in the format that is specified in these documents.
3. At a minimum, the QAP must include the following:
   a) Details on the number of samples, type of sample containers, preservation of samples, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.
   b) Map(s) indicating the location of each sampling point.
   c) Qualification and training of personnel.
   d) Name(s), address(es) and telephone number(s) of the laboratories used by or proposed to be used by the Permittee.
4. The Permittee must amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP.
5. Copies of the QAP must be kept on site and made available to EPA upon request.

C. Facility Planning Requirement

Each year, the Permittee must compute an annual average value for the flow, BOD_5 loading, and TSS loading entering the facility based on the previous twelve months data or all data available, whichever is less. If the facility has completed a plant upgrade that affects the facility planning values listed in Table 2, only the data collected after the upgrade should be used in determining the annual average value.

When the annual average values exceed 85% of any of the facility planning values listed in Table 2, the Permittee must develop a facility plan and schedule within one year from the date of the first exceedance. 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. The Permittee must also notify the Director that the facility plan is being prepared.

Table 2: Facility Planning Design Criteria

Criteria	Value	Units
Average Flow	0.25	mgd
Influent BOD_5 Loading	400	lbs/day

Table 2: Facility Planning Design Criteria		
Criteria	Value	Units
Influent TSS Loading	400	lbs/day

D. 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 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 Section 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 Section III.C ("Monitoring Procedures"). The Permittee must report all additional monitoring in accordance with Section III.D ("Additional Monitoring by Permittee").

B. Reporting of Monitoring Results

1. Paper Copy Submissions

The Permittee must summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent. The Permittee must submit reports monthly, postmarked by the 10th day of the following month. The Permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Section 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 at the following address:

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

On the same schedule, the Permittee will provide courtesy copies of the reports to:

Washington Department of Ecology
1440 - 10th Street, Suite 102
Bellingham, WA 98225

2. Electronic submissions

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

C. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR Part 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 Part 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 at any time.

G. Twenty-four Hour Notice of Noncompliance Reporting

1. The Permittee must report the following occurrences of noncompliance by telephone to EPA at (206) 553-1846 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 Section IV.F., “Bypass of Treatment Facilities”);
   c) any upset that exceeds any effluent limitation in the permit (See Section IV.G., “Upset Conditions”); or
   d) any violation of a maximum daily discharge limitation for applicable pollutants identified by Section I.B.

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 subsection 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 Section 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 Section III.B ("Reporting of Monitoring Results") are submitted. The reports must contain the information listed in Section III.G. 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 Section II.D.

J. Notice of New Introduction of Toxic Pollutants

The Permittee must notify the Director of the Office of Water and Watersheds in writing of:

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

   US EPA Region 10
   Attn: NPDES Permits Unit Manager
   1200 6th Avenue, Suite 900,
   OWW-130
   Seattle, WA 98101-3140

IV. Compliance Responsibilities

A. Duty to Comply

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

B. Penalties for Violations of Permit Conditions

1. Civil and Administrative Penalties. Pursuant to 40 CFR Part 19 and the Act, any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $37,500 per day for each violation).

2. Administrative Penalties. Any person may be assessed an administrative penalty by the Administrator for violating Section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of this Act. Pursuant to 40 CFR 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 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 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 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 will 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 will 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, will, 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 will 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, will, 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 will, 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 will, 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 will 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 Section.
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 Section 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 Section.

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 Section.

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 Section. 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 Section III.G, "Twenty-four Hour Notice of Noncompliance Reporting;" and
   d) The Permittee complied with any remedial measures required under Section 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 Section III.K. 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 Part 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 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 Part 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 Part 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, within the time specified in the request, any information that EPA 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, 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, it must promptly submit the omitted facts or corrected information in writing.

E. Signatory Requirements

All applications, reports or information submitted to EPA 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 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.
3. Changes to authorization. If an authorization under Section V.E. 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 Section V.E. must be submitted to the Director of the Office of Compliance and Enforcement 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 Section 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 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 Part 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 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 Section III.K. 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 Part 122.61; in some cases, modification or revocation and reissuance is mandatory).

J. State Laws

Nothing in this permit is to 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. "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 nth 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. "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).
15. "Maximum daily discharge limitation" means the highest allowable "daily discharge."
16. "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.
17. "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.
18. "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.
19. "QA/QC" means quality assurance/quality control.
20. "Regional Administrator" means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.
21. "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.
22. "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.
23. "24-hour composite" sample means a combination of at least 8 ***specify if more than 8 aliquots are required*** 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 ***or, specify time proportional, if appropriate***. 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.