January 30, 1995

Permit No: ID-002540-2
Application No.: ID-002540-2

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",

Cyprus-Thompson Creek Mine

is authorized to discharge from a facility located near Clayton, Idaho, to the following

receiving waters:

Thompson Creek, Squaw Creek, and Salmon River

in accordance with discharge points, 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,

Signed this day of , 1994.

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Director, Water Division, Region 10
U.S. Environmental Protection Agency

PRELIMINARY DRAFT

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PRELIMINARY DRAFT

I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

A. Specific Limitations and Monitoring Requirements.

1. During the period beginning on the effective date of this permit and lasting until the expiration date, discharges from **Outfalls 001 and 002** are authorized to Thompson Creek, in accordance with the effluent limitations and monitoring requirements as specified below:

EFFLUENT PARAMETERS	EFFLUENT LIMITATIONS		MONITORING REQUIREMENTS	
OUTFALLS 001/002	MONTHLY AVERAGE	DAILY MAXIMUM	FREQUENCY	SAMPLE TYPE
Flow, MGD	--	--	Continuous Recording	
pH	6.0 to 9.0 Standard Units		Weekly	Grab
Total Suspended Solids (mg/L)	20	30	Weekly	Grab
Arsenic (As)*	--	0.8	Monthly	Grab
Cadmium (Cd)*	--	1.1	Monthly	Grab
Copper (Cu)*	--	13.2	Monthly	Grab
Lead (Pb)*	--	4.3	Monthly	Grab
Mercury (Hg)*	--	0.2	Monthly	Grab
Zinc (Zn)*	--	104	Monthly	Grab

All measurements in μg/L unless otherwise noted.
* These parameters shall be analyzed and reported as Total Recoverable.

a. Monitoring of outfall 001 shall be conducted immediately below the weir/overflow structure situated in the Buckskin Creek drainage whenever there is a discharge from outfall 001. Flow shall be monitored continuously at the weir structure during periods of discharge.

b. Monitoring of outfall 002 shall be conducted immediately below the weir/overflow structure situated in the Pat Hughes Creek drainage whenever there is a discharge from outfall 002. Flow shall be monitored continuously at the weir structure during periods of

discharge.

c. There shall be no discharge of floating solids or visible foam in other than trace amounts.

d. If as a result of precipitation or snowmelt, the discharges from outfall 001/002 exceeds the above technology-based limit for TSS the permittee may qualify for an exemption from such limitation if the following conditions are met:

(1) The facility is designed, constructed and maintained to contain the maximum volume of runoff that would result from a 10-year, 24-hour precipitation or snow melt event in addition to the maximum amount of water handled by the facility, and

(2) The permittee takes all reasonable steps to maintain treatment of the wastewater and minimize the amount of overflow, and

(3) The permittee complies with the notification requirements of Part II.G. of this permit.

The permittee has the burden of demonstrating to the EPA that the above conditions have been met.

2. During the period beginning on the effective date of this permit and lasting until the expiration date, discharges from **Outfall 004** are authorized to Squaw Creek, in accordance with the effluent limitations and monitoring requirements as specified below:

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EFFLUENT PARAMETERS	EFFLUENT LIMITATIONS				MONITORING REQUIREMENTS	
OUTFALL 004	MONTHLY AVERAGE ≥ 97 cfs	DAILY MAXIMUM ≥ 97 cfs	MONTHLY AVERAGE < 97 cfs	DAILY MAXIMUM < 97 cfs	FREQUENCY	SAMPLE TYPE
Flow, MGD	–			–	Continuous Recording	
pH	6.0 to 9.0 Standard Units				Daily	Grab
Total Suspended Solids (mg/L)	20	30	20	30	Weekly	Grab
Arsenic (As)*	4.5	6.5	0.7	1.1	Weekly	Grab
Cadmium (Cd)*	4.8	7	5	7	Weekly	Grab
Copper (Cu)*	18.5	27	7	10	Weekly	Grab
Lead (Pb)*	12.5	18.2	2	2.9	Weekly	Grab
Mercury (Hg)*	0.12	0.2	0.02	0.03	Weekly	Grab
Zinc (Zn)*	355	517	56	82	Weekly	Grab

All measurements in μg/L unless otherwise noted.
* These parameters shall be analyzed and reported as **Total Recoverable.**

a. Monitoring of outfall 004 shall be conducted at the pump back station structure situated in the Bruno Creek drainage whenever there is a discharge from outfall 004. Flow shall be monitored continuously during periods of discharge.

b. There shall be no discharge of floating solids or visible foam in other than trace amounts.

c. If as a result of precipitation or snowmelt, the discharge from outfall 004 exceeds the above technology-based limit for TSS the permittee may qualify for an exemption from such limitation if the following conditions are met:

(1) The facility is designed, constructed and maintained to contain the maximum volume of runoff that would result from a 10-year, 24-hour precipitation or snow melt event in addition to the maximum amount of water handled by the facility, and

(2) The permittee takes all reasonable steps to maintain treatment of the wastewater and minimize the amount

of overflow, and

(3) The permittee complies with the notification requirements of Part II.G. of this permit.

The permittee has the burden of demonstrating to the EPA that the above conditions have been met.

3. During the period beginning on the effective date of this permit and lasting until the expiration date, discharges from **Outfall 005** are authorized to the Salmon River, in accordance with the effluent limitations and monitoring requirements as specified below:

EFFLUENT PARAMETERS	EFFLUENT LIMITATIONS		MONITORING REQUIREMENTS	
OUTFALL 005	MONTHLY AVERAGE	DAILY MAXIMUM	FREQUENCY	SAMPLE TYPE
Flow, MGD	--	--	Continuous Recording	
pH	6.0 to 9.0 Standard Units		Daily	Grab
Total Suspended Solids (mg/L)	20	30	Weekly	Grab
Arsenic (As)*	0.75	1.5	Weekly	Grab
Cadmium (Cd)*	6	12	Weekly	Grab
Copper (Cu)*	41	83	Weekly	Grab
Lead (Pb)*	9	18	Weekly	Grab
Mercury (Hg)*	0.6	1.2	Weekly	Grab
Zinc (Zn)*	214	429	Weekly	Grab

All measurements in $\mu g/L$ unless otherwise noted.
* These parameters shall be analyzed and reported as **Total Recoverable.**

a. Monitoring of outfall 005 shall be conducted at the pump station structure above the discharge point on the Salmon River whenever there is a discharge from outfall 005. Flow shall be monitored continuously during periods of discharge.

b. There shall be no discharge of floating solids or visible foam in other than trace amounts.

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c. If as a result of precipitation or snowmelt, the discharge from outfall 005 exceeds the above technology-based limit for TSS the permittee may qualify for an exemption from such limitation if the following conditions are met:

(1) The facility is designed, constructed and maintained to contain the maximum volume of runoff that would result from a 10-year, 24-hour precipitation or snow melt event in addition to the maximum amount of water handled by the facility, and

(2) The permittee takes all reasonable steps to maintain treatment of the wastewater and minimize the amount of overflow, and

(3) The permittee complies with the notification requirements of Part II.G. of this permit.

The permittee has the burden of demonstrating to the EPA that the above conditions have been met.

4. Additional Monitoring and Reporting Requirements:

a. For TSS and pH the permittee shall use the test methods approved in Methods for Chemical Analysis of Water and Wastes, (EPA-600/4-79/020).

b. The following EPA analytical methods shall be used for each specified parameter:

Parameter	Analytical Method	Method Detection Level (μg/L)	Interim Minimum Level and Lowest Calibration Level (μg/L)
Arsenic	EPA Method 206.2, AA Furnace	1	3
Cadmium	EPA Method 200.7, ICP	4	13
Copper	EPA Method 200.7, ICP	6	19
Lead	EPA Method 239.2 AA Furnace	1	3
Mercury	EPA Method 245.2	0.2	0.6
Zinc	EPA Method 200.7 ICP	2	6

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c. For purposes of reporting on the DMR, the permittee shall use the reporting threshold equivalent to the Interim Minimum Level (Interim ML) for those parameters whose water quality-based limits are below detection levels.

d. For purposes of reporting on the DMR, actual analytical results should be reported whenever possible. All analytical values at or above the Interim ML shall be reported as the measured value. When the results cannot be quantified, values below the Interim ML shall be reported as zero.

e. In the "Comment Section" of the DMR, the permittee shall report the Interim ML, the ML achieved, and the number of times non-detectable results were reported as zero.

5. Reopener Clause:

This permit may be reopened to include any applicable effluent limitations or conditions which have been developed from the TMDL process.

6. During the period beginning on the effective date of this permit, lasting until the expiration date, discharge from outfall 003 is authorized. The permittee shall monitor turbidity (above and below the Bruno Creek access road stormwater settling ponds) weekly during February 1 to June 30, and monthly from July to January. This monitoring shall be performed in accordance with the requirements of the water quality monitoring program as required by Part I.A.C.

B. Toxicity Testing Requirements.

1. The permittee shall perform <u>chronic</u> toxicity tests on effluent collected from outfalls 001/002, 004, and 005.
   a. Tests on 001/002 shall be run twice per year during the months of May and July, during the normal period of discharge.

   b. When outfall 004 is active, tests shall be run a minimum of twice per period of discharge or one year, whichever is shorter in duration. The first test shall be run within one week of the

beginning of discharge and the second test run at peak discharge.

c. When outfall 005 is active, tests shall be run a minimum of twice per period of discharge or one year, whichever is shorter in duration. The first test shall be run within one week of the beginning of discharge and the second test run at peak discharge.

All test results for each outfall shall be submitted with the monthly Discharge Monitoring Reports (DMRs) as required in Part II.B., the month after testing is completed.

2. Chronic test for effluent toxicity shall be conducted using protocols contained in Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, Third Edition (EPA-600/4-91/002). Specifically for each testing period at each outfall two chronic tests shall be used:

fathead minnow (Pimephales promelas), static renewal, larvae survival and growth test, and

three-brood, seven-day chronic cladoceran (Ceriodaphnia dubia), static renewal survival and reproduction tests.

Such testing will determine if the effluent affects the survival, reproduction, or growth of the test organism.

3. Within 30 days of the effective date of this permit, the permittee shall submit to EPA for review and approval the selection of an appropriate control water for the toxicity tests for each outfall.

4. The chronic testing shall identify the no observed effect concentration (NOEC) for each outfall. The NOEC shall be determined to be the effluent concentration for which survival, reproduction, or growth of the test organisms is not significantly different (at the 95% confidence level) from that of the control organisms. If acute toxicity is demonstrated during any of the chronic tests at any outfall, the permittee is required to conduct a series of daily observations on mortality which will allow the permittee to calculate the 96 hour lethal concentration for 50% mortality (96-hour LC_{50}).

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This calculation shall be reported with the other toxicity monitoring results.

5. Tests shall be conducted on grab samples of the effluents. Samples collected shall be large enough to provide effluent to conduct toxicity tests, plus chemical tests required in Part I.A.1. The tests shall include a series of dilutions of the effluent ranging from control water to 100% effluent (e.g. 0%, 1.0%, 6%, 11%, 48%, 73% and 100%) such that it includes the expected 6%, 11%, 48% and 73% effluent concentration (Instream Waste Concentration, IWC) for each outfall:

   a. Outfall 001/002 - test dilutions shall be established at 0%, 1.0%, 5%, 10%, 48% and 100% to correspond to the IWC of 48% in Thompson Creek.

   b. Outfall 004 - test dilutions shall be established at 0%, 1.0%, 5%, 11%, 73% and 100% to correspond to the IWC of 11% and 73% in Squaw Creek during different seasons.

   c. Outfall 005 - test dilutions shall be established at 0%, 1.0%, 6%, 10%, 25% and 100% to correspond to the IWC of 6% in the Salmon River.

6. If, in any test, more than 10% of the control organisms die within 96 hours, or more than 20% of the control organisms die during the duration of the test, that test shall be repeated as soon as practicable using a freshly collected sample. The permittee shall also notify EPA as required in Part II.G.

7. Statistical analysis of test results shall be determined by hypothesis testing and follow the recommendation for "Data Analysis" in Chapter 2 of the EPA document referenced in Part I.B.2. above.

8. If the NOECs for each outfall are found to be <u>greater than 48% (Outfalls 001/002), 11% and 73% (Outfall 004) or 6% (Outfall 005) effluent</u>, the permittee shall continue the chronic tests as required above.

9. If the NOECs for each outfall are ever found to be <u>at or below 48% (Outfalls 001/002), 11% and 73% (Outfall 004) or 6% (Outfall 005) effluent</u>, the permittee shall conduct six accelerated acute tests and the permittee must notify EPA as required in Part II.G.

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10. All quality assurance criteria used shall be in accordance with the following documents:

    Methods for Measuring Acute Toxicity of Effluents to Freshwater and Marine Organisms. Fourth Edition, EPA-600/4-90/027,

    Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. Third Edition, EPA/600/4-91/002,

    Quality Assurance Guidelines for Biological Testing, EPA/600/4-78/043, and

    Quality Assurance Bibliography, EPA/600/4-89/001.

C. Water Quality Monitoring Program Requirements.

1. In addition to the above referenced effluent monitoring requirements, the permittee shall continue to provide water quality monitoring in accordance with the Cyprus Thompson Water Quality Monitoring Program modified in November, 1993 and agreed upon by the U.S. Forest Service, the State of Idaho, EPA, and Cyprus Thompson Creek Mine. A revision of the monitoring program is due in 1994. The program shall include the following:

   - a map indicating the exact monitoring locations,
   - protocols for sampling techniques (field blanks, replicated, duplicates, control samples, etc.), and
   - a quality assurance plan.
   - modification of analysis methods specified in the existing monitoring plan (Cyprus Thompson Creek Water Quality Monitoring Program, 1987) for chemical specific tests, incorporating the changes outlined in Table 6 of the fact sheet.

   Upon EPA and DEQ approval, the terms and conditions of the monitoring program shall become part of this permit.

2. Monitoring data results shall be compiled by and maintained in files at the mine site (see Part II.G.),

and submitted quarterly with the Discharge Monitoring Reports (DMRs) for March, June, September, and December to EPA and IDHW-DEQ.

3. Samples shall be collected at the following locations:

Station Id.	Location/Description
TC-1	Thompson Creek, downstream of the confluence with Pat Hughes Creek
TC-3	Thompson Creek, downstream of the confluence with Buckskin Creek
TC-4	Thompson Creek, upstream of the confluence with Buckskin Creek
SQ-2	Squaw Creek, downstream of the confluence with Bruno Creek.
SQ-3	Squaw Creek, upstream of the confluence with Bruno Creek, below Redbird Mine.
SQ-4	Bruno Creek at the USGS gauging station,
SR-1	Salmon River station upstream of discharge 005.
SR-2	Salmon River station downstream of discharge 005.
SR-3	Salmon River station downstream of confluence with Squaw Creek.

4. At each station the permittee shall sample for the following parameters on a quarterly basis:

Parameter	Units	Frequency
Flow	cfs	Quarterly
Conductivity	µmhos/cm @25°C	Quarterly
Alkalinity	mg/l as $CaCO_3$	Quarterly
Hardness	mg/l as $CaCO_3$	Quarterly
pH	standard units	Quarterly
Dissolved Oxygen	mg/l	Quarterly
Temperature	°C	Quarterly
TSS	mg/l	Quarterly
Turbidity	NTU	Quarterly
Aluminum**	µg/l	Quarterly
Arsenic**	µg/l	Quarterly
Cadmium**	µg/l	Quarterly
Copper**	µg/l	Quarterly
Lead**	µg/l	Quarterly
Mercury**	µg/l	Quarterly
Zinc**	µg/l	Quarterly

* Weekly instream monitoring of dissolved oxygen at all Salmon River stations is required during periods of discharge from 005.

** These parameters shall be analyzed and reported as **Total Recoverable.**

5. On an annual basis the program shall be reviewed by EPA and interested parties to determine if adjustments to the monitoring plan are necessary.

D. **Best Management Practices Plan.** The permittee shall develop a best management practices plan (the Plan) which prevents, or minimizes, the potential for the release of pollutants to waters of the United States through plant site runoff, spillage or leaks, or erosion. The permittee shall develop the Plan within 90 days of the effective date of this permit. The Plan is subject to EPA and IDHW-DEQ review and approval. The Plan shall be implemented within 120 days of the effective date of this permit. The Plan shall be

retained on site and made available to EPA and IDHW-DEQ upon request.

The Plan shall be consistent with the above objectives and the general guidance contained in the following publications:

- Best Management Practices Guidance Document (U.S. EPA, 1981)
- Storm Water Management Plans for Industrial Activities (U.S. EPA, 1992)
- Storm Water Management Plans for Construction Activities (U.S. EPA, 1992)

1. **Discharges Covered Under This Section**

a. The requirements listed under this section shall apply to storm water discharges only from the following areas of mining facilities[1]:

- Topsoil piles;
- Offsite haul/access roads if off active area;
- Onsite haul roads if not constructed of waste rock or if spent ore and mine water is not used for dust control;
- Runoff/seepage from tailings dams/dikes when not constructed of waste rock/tailings and no process fluids are present;
- Concentration building, if no contact with material piles;
- Mill site, if no contact with material piles;
- Chemical storage area;
- Explosive storage;
- Reclaimed areas released from reclamation bonds prior to December 17, 1990;
- Parking lots
- Fuel storage areas

2. Site Management Pollution Prevention Plan Requirements

The contents of the Plan for metal mining facilities shall include, at a minimum, the following items:

a. Pollution Prevention Team. The Plan shall identify a specific individual or individuals within the facility organization as members of a Pollution Prevention Team. The Pollution Prevention Team shall be responsible for developing the Plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The Plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team

[1] Other sources of storm water which come into contact with raw products, intermediate products, final products or disturbed areas of a mining site are considered mine drainage and subject to effluent limitation. Mine drainage discharges are not covered under this section.

shall address all aspects of the facility's Plan.

b. Description of Mining Activities. The Plan shall provide a narrative description of the mining and associated activities taking place at the site which affect or may affect storm water runoff or which may result in the discharge of pollutants to surface waters during dry weather. The narrative description shall report the total acreage within the mine site, an estimate of the number of acres of disturbed land and an estimate of the total amount of land proposed to be disturbed throughout the life of the mine. A general description of the location of the mining site relative to major transportation routes and communities shall also be provided.

c. Description of Potential Pollutant Sources. The Plan shall identify all activities and significant materials which may potentially be significant storm water pollutant sources (including sediment) or may result in the discharge of pollutants during dry weather from the facility site. The Plan shall include, at a minimum:

(1) Drainage.

(a) A site topographic map shall be included in the Plan. At a minimum, the map shall identify and label the following areas:

- Mining/milling site boundaries and access and haul roads;
- The location of each storm water outfall and an outline of the portions of the drainage area that are within the facility boundaries;
- Equipment storage, fueling and maintenance areas;
- Materials handling areas;
- Storage areas for chemicals and explosives;
- Areas used for storage of overburden, materials, soils or wastes;
- Location of mine drainage (where water leaves mine) or any other process water;
- Tailings piles/ponds, both proposed and existing;
- Heap leach pads;
- Points of discharge from the property for mine drainage or any other process water;
- Springs, streams, wetlands and other surface waters; and
- Boundary of area that contributes runoff to outfalls that are subject to effluent limitations guidelines.

(b) For each area of the mine/mill site that generates storm water discharges associated with industrial activity or which

may result in the discharge of pollutants during dry weather, the permittee shall provide a prediction of the direction of flow, and an identification of the types of pollutants (e.g., heavy metals) which are likely to be present in discharges. Factors to consider include the mineralogy of the ore and waste rock (e.g., acid forming), toxicity and quantity of chemical(s) used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(2) Inventory of Exposed Materials. For each storm water outfall the permittee shall develop an inventory of the types of materials handled at the site that potentially may be exposed to precipitation. The inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the issuance of this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the issuance of this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

A summary of any existing ore or waste rock/overburden characterization data, including results of testing for acid rock generation potential shall be included in the inventory. If the ore or waste rock/overburden characterization data is updated due to a change in the ore type being mined, the storm water pollution prevention plan shall be updated with the new data.

(3) Spills and Leaks. The permittee shall develop a list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation, that drain to a storm water conveyance or drain to surface waters of the United States at the facility after the date of 3 years prior to the effective date of this permit. Such list shall be updated as appropriate during the term of the permit.

(4) Sampling Data. The permittee shall develop a summary of existing discharge sampling data describing pollutants in

storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(5) Risk Identification and Summary of Potential Pollutant Sources. A narrative description of the potential pollutant sources from the following activities associated with metal mining: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., heavy metals, etc.) of concern shall be identified.

d. Measures and Controls. The permittee shall develop a description of pollution prevention controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in the Plan shall reflect identified potential sources of pollutants at the facility. The description of management controls shall address the following minimum components:

(1) Good Housekeeping. Good housekeeping requires areas which may contribute pollutants to storm water discharges or areas which may result in the discharge of pollutants during dry weather, to be maintained in a clean, orderly manner.

(2) Preventive Maintenance. A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems. Particular attention shall be given to erosion control and sediment control systems and devices.

(3) Spill Prevention and Response Procedures. Areas where potential spills which can result in significant amounts of pollutants reaching surface waters or areas where potential spills can contribute pollutants to storm water discharges, and their accompanying drainage points shall be identified clearly in the Plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the Plan should be considered. Procedures for cleaning up spills shall be identified in the Plan and made available to the appropriate personnel. The equipment necessary to implement a clean up should be readily available to personnel.

(4) Inspections. The Plan shall identify qualified personnel that shall inspect designated equipment and mine areas at least on a monthly basis; however, inspections are not required when adverse weather conditions (e.g., snow) make the site inaccessible. All material handling areas shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion control systems and sediment control devices shall also be inspected to determine if they are working properly. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained. The use of a checklist developed by the facility is encouraged.

(5) Recordkeeping and Internal Reporting Procedures. A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges or dry weather discharges shall be included in the Plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the Plan.

(6) Employee Training. Employee training programs shall inform personnel of the components and goals of the Plan. Training should address topics such as spill response, good housekeeping, and material management practices. The Plan shall specify how often training shall take place, but in all cases training must be held at least semi-annually.

(7) Sediment and Erosion Control. The Plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant erosion of soil and/or other materials, and identify measures to be used to limit erosion and/or remove sediment from storm water runoff. The measures to consider include diversion of flow away from areas susceptible to erosion, stabilization methods to prevent or minimize erosion, and structural methods for controlling sediment. These can include the following:

Diversion practices include the following: interceptor dikes and swales; diversion dikes, curbs and berms; pipe slope drains; subsurface drains; and drainage/storm water conveyance systems (channels or gutters; open top box culverts, and waterbars; rolling dips and road sloping; roadway surface water deflector; and culverts).

Stabilization practices include the following: temporary or permanent seeding; vegetative buffer strips; protection of trees; topsoiling; soil conditioning; contouring; mulching; geotextiles

(matting; netting; or blankets); riprap; gabions; and retaining walls.

Structural practices include the use of the following: check dams; rock outlet protection; level spreaders; gradient terraces; straw bale barriers; silt fences; gravel or stone filter berms; brush barriers; sediment traps; grass swales; pipe slope drains; earth dikes; and other controls such as entrance stabilization, waterway crossings or wind breaks.

(8) Management of Runoff. The Plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The Plan shall provide for implementation and maintenance of the storm water practices that the permittee determines to be reasonable and appropriate. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph I.D.2.c of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/ retention devices, or impoundments.

(9) Specific Management Practices. The following specific requirements shall be incorporated into the Plan:

(a) Ensure that berms, including any pond walls, ditches, dikes, dams and similar water retention structures shall be constructed in a manner such that they reject the passage of unwanted water.

(b) Ensure that measures are taken such that pollutant materials removed from the process water and wastewater streams will be retained and not discharged to waters of the United States.

(c) Ensure that all water control devices, including but not limited to structures and berms, and all solids retention structures such as berms, dikes, and pond structures and dams, shall be maintained to continue their effectiveness and to protect from unexpected and catastrophic failure.

(d) Ensure proper management of solid and hazardous waste in accordance with regulations promulgated under the Resource Conservation and Recovery Act (RCRA). Management practices required under RCRA regulations shall be referenced in the BMP Plan.

(e) Delivery Vehicles. The plan must describe measures that prevent or minimize spills and/or contamination of storm water runoff from delivery vehicles arriving on the plant site. At a minimum the facility must:

- Develop procedures for the inspection of delivery vehicles arriving on the plant site, and ensure overall integrity of the body or container.

- Develop procedures to deal with leakage or spillage from vehicles or containers, and ensure that proper protective measures are available for personnel and environment.

(f) Fuel Oil Unloading Areas. The plan must describe measures that prevent or minimize spills and/or contamination of storm water runoff from fuel oil unloading areas. At a minimum the facility must use the following measures or their equivalent:

- Use containment curbs in unloading areas

- During deliveries station personnel familiar with spill prevention and response procedures must be present to ensure that any leaks or spills are immediately contained and cleaned up.

- Use spill and overflow protection (drip pans and other containment devices shall be placed beneath fuel oil connectors to contain any spillage that may occur during deliveries or due to leaks at the connectors).

(g) Chemical Loading/Unloading Areas. The plan must describe measures that prevent or minimize spills and/or the contamination of storm water runoff from chemical loading/unloading areas. At a minimum the permittee must use the following measures or their equivalent:

- use containment curbs at chemical loading/unloading areas to contain spills

- During deliveries station personnel familiar with spill prevention and response procedures must be present to ensure

that any leaks or spills are immediately contained and cleaned up.

Where practicable chemical loading/unloading areas should be covered.

(h) Miscellaneous Loading/Unloading Areas. The plan must describe measures that prevent or minimize spills and/or the contamination of storm water runoff from loading and unloading areas. The facility may consider covering the loading area, minimizing storm water run-on to the loading area by grading, berming, or curbing the area around the loading area to direct away from the area, or locate the loading/unloading equipment and vehicles so that leaks can be contained in existing containment and flow diversion systems.

(i) Liquid Storage Tanks. The plan must describe measures that prevent or minimize spill and/or contamination of storm water runoff from above ground liquid storage tanks. At a minimum the facility must employ the following measures or their equivalent:

- Use protective guards around tanks
- Use containment curbs
- Use spill and overflow protection (drip pans and other containment devices shall be place beneath chemical connectors to contain any spillage that may occur during deliveries or due to leaks at these connectors)
- Use dry cleanup methods

(j) The plan must describe measures to reduce the potential for an oil spill, or a chemical spill. At a minimum the structural integrity of all above ground tanks, pipelines, pumps and other related equipment shall be visually inspected on a weekly basis.

(k) Residue Hauling Vehicles. All residue hauling vehicles shall be inspected for proper covering over the load, adequate gate sealing and overall integrity of the body or container.

e. Consistency With Other Plans. The Plan may reference the existence of other plans for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under Section 311 of the CWA or Best Management Practices (BMP) Programs otherwise required by an NPDES and/or mining permit for the facility as long as such requirement is incorporated into the Plan.

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3. Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the Plan, but in no case less than twice a year. Such evaluations shall provide:

a. Site Evaluation. Areas contributing to a storm water discharge associated with industrial activity or areas where a discharge of pollutants may occur during dry weather shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the Plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the Plan, such as spill response equipment, shall be made.

b. Corrective Action. Based on the results of the inspection, the description of potential pollutant sources identified in the Plan in accordance with paragraph I.D.2.c. (Description of Potential Pollutant Sources) of this section and pollution prevention measures and controls identified in the Plan in accordance with paragraph I.D.2.d. (Measures and Controls) of this section shall be revised as appropriate within 2 weeks of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the inspection.

c. Record keeping and Reporting Requirements. A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the Plan, and actions taken in accordance with paragraph I.D.3.b (above) of the permit shall be made and retained as part of the Plan for at least 1 year after coverage under this permit terminates. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the Plan and this permit. The report shall be signed in accordance with Part IV.H. (Signatory Requirements) of this permit.

E. Quality Assurance Project Plan

1. The permittee shall develop Quality Assurance Project Plans (QAPPs). The purpose of the QAPPs shall be to assist in planning for the collection and analysis of environmental samples in support of the permit and in explaining data anomalies when they occur.

PRELIMINARY DRAFT

a. Throughout all sample collection and analysis activities, the permittee shall use the EPA-approved quality assurance, quality control, and chain-of-custody procedures described in Interim Guidelines and Specifications For Preparing Quality Assurance Project Plans, QAMS-005/80, December 29, 1980. The permittee's QAPPs shall be prepared in the format which is specified in QAMS-005/80. The following two references may be helpful in preparing the QAPPs for this permit:

You and Quality Assurance in Region 10, EPA, Regional 10, Quality and Data Management Program, March 1988.

Example Format and Critical Elements of Quality Assurance Plan, EPA, Region 10, Quality and Data Management Program.

b. The QAPPs shall include details on the number of samples, type of sample containers, preservation of samples, holding times, analytical detection and quantitation limits (or method detection level and minimum level for metals) for each target compound, analytical methods, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.

c. The QAPPs shall specify the collection and analysis of quality assurance samples for each sampling event, such as (1) matrix spiked (MS) and duplicate samples on ten percent of samples; and (2) analysis of Field Transfer Blanks (sample blanks) to identify contamination of samples.

d. Duplicate samples are not required for the following parameters: temperature, turbidity.

e. Matrix spiked samples are not required for the following tests listed in Table 1 of 40 CFR Part 136: acidity, alkalinity, bacteriological tests, chlorine, dissolved oxygen, hardness, pH, residues (solids), temperature, turbidity.

f. The permittee shall amend the QAPPs, whenever there is a modification in the sample collection, the sample analysis, or whenever conditions or requirements of the QAPPs change.

g. Name(s), address(es) and telephone number(s) of the laboratories, used by or proposed to be used by the permittee, shall be specified in the QAPPs.

h. Copies of QAPPs shall be kept on site and shall be made

available to EPA and IDHW-DEQ upon request.

2. The permittee shall submit its QAPPs to EPA and IDHW-DEQ for review and approval within 120 days of the effective date of this permit.

3. Upon QAPPs' approval from EPA, the permittee shall implement the provisions of the QAPPs required under this Part as a condition of this permit. Non-compliance with the conditions and requirements of QAPPs shall constitute non-compliance with this permit.

4. The permittee shall require the laboratory director of each laboratory providing measurement results in support of this permit to sign and submit to EPA the following statement on a monthly basis with the DMR:

   I certify that this data is in compliance with requirements under 40 CFR Part 136 and other analytical requirements specified in this NPDES permit, No. ID-002709-0.

   Signature: _____ ***Date:*** _____

5. Within 30 days of sample analysis, the permittee shall ensure that all data used in support of this permit are validated. Data validation results shall be kept on site and shall address the elements described in the following references:

   Draft Laboratory Data Validation Functional Guidelines For Evaluating Inorganic Analyses, July 1, 1988.

   Draft National Functional Guidelines For Organic Data Review, Revised: June 1991.

   Laboratory Data Validation Functional Guidelines For Evaluating Organics Analyses, February 1, 1988.

   Parameters not addressed in the above documents should also be validated using the same guidelines. Data validation records shall be kept on site and made available to EPA and IDHW-DEQ upon request.

6. The permittee shall obtain and archive the following types of documents for sample collection, shipment, and analyses:

   All Sample Tracking Reports (i.e., the signed chain-of-custody forms and the signed packing lists)

   Sample Log-In Forms

   All of the Sample tags and Air or Freight Bills

   Custody seals

   Any telephone logs referring to the samples

Case Narrative signed by the laboratory manager or his/her designee certifying the accuracy and validity of all data reported and describing any changes or problems encountered during the analyses along with documenting their resolution(s)

Tabulated sample results, with units, percent solids, and sample weights or volumes clearly specified

Blank data with tabulated results. Specify which samples go with which blank

Surrogate spike analysis result summaries with calculated percent recovery values

Matrix Spike/Duplicate (MS/D) result summaries with calculated percent recovery and relative percent difference values

Sample data from laboratories including:

- All tabulated results
- All data system printouts
- Manual worksheets (log books, logs of any preparation of samples)
- Extraction, dilution and cleanup logs and percent moisture for all samples, blanks
- Continuing Calibration Standard forms that include the laboratory name, laboratory code, Job Number, SDG number, calibration sources, concentration units, analytes, true values, found values and the calculated percent Recovery (%R)
- The Initial Calibration curve(s) labeled with date and time of preparation
- Bench sheets for sample preparation and analysis of samples and standards indicating dates, times, methods of sample digestion/preparation and analysis, and volumes/amounts/concentrations of standard and reagents added, instrument run time/date, dilutions made, etc.
- Preparation/weight logs for percent moisture determinations. All bench sheets and logs will be labeled with the date and shall bear the analyst's signature.

Raw Quality Control data from laboratories

including:

- Blank data in chronological order:
  i) Tabulated results
  ii) All blank data system printouts

- MS/D data in chronological order:
  i) Tabulated results
  ii) All MS/D data system printouts

The above documentation shall be kept on site and made available to EPA and IDHW-DEQ upon request.

7. The permittee shall archive sample data and project records for three years from the date of sample analysis.

8. Each year, by December 31, the permittee shall provide written verification to EPA and IDHW-DEQ that all laboratories or contract laboratories used by the permittee in that year participate in quality assurance/quality control (QA/QC) programs which are equivalent to that required by EPA for EPA's contract laboratories (EPA Contract Laboratory Program).

9. The permittee shall ensure that all laboratories' QA plans address all elements specified in the following EPA document:

   Guidance on Preparation of Laboratory Quality Assurance Plans, U.S. EPA Region 10, EPA 910/9-92-032, February 14, 1991.

   Permittee's copies of the laboratories' QA plan(s) shall be made available upon request and shall be available for inspection at the permittee's offices.

10. Each year, by December 31, the permittee shall provide written verification to EPA and IDHW-DEQ that all laboratories used in that year for the purpose of measuring permit samples have facilities, equipment, staff, quality assurance programs, and quality control procedures to perform sample measurements in support of this permit. The permittee may conduct an on-site Technical Systems Audit of the laboratories to make this determination.

11. The permittee may obtain copies of all references cited in this part of the permit from the following address:

    Quality and Data Management Program
    Environmental Services Division
    U.S. EPA, Region 10
    1200 6th Avenue, ES-095
    Seattle, Washington 98101

F. Other Requirements

1. Seasonal or Emergency Closure Plan

The permittee shall develop a seasonal or emergency closure plan in the event extremely cold weather or other emergency curtails production. This plan shall be submitted to EPA and IDHW-DEQ for review and approval within 90 days of the effective date of this permit. The plan shall consider reducing water levels in the ponds to eliminate overtopping of the ponds due to high precipitation, runoff or snow melt runoff, and controlling the runoff from waste rock piles and tailings impoundment seepage return dam.

II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS.

A. Representative Sampling. All samples for monitoring purposes shall be representative of the monitored activity, 40 CFR 122.41(j). To determine compliance with permit effluent limitations, "grab" samples shall be taken as established under Part I.A. of this permit. Effluent samples shall be collected prior to discharge to the receiving stream.

B. Reporting of Monitoring Results. Monitoring results shall be summarized each month and reported on EPA Form 3320-1 (Discharge Monitoring Report) and submitted to the Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Water Compliance Section WD-135, Seattle, Washington 98101-3188, postmarked no later than the **10th of the following month.** If there is no wastewater discharge the Permittee shall mark the DMR appropriately and submit the form by the 10th of the following month. Reports shall also be submitted to IDHW-DEQ, Eastern Idaho Regional Office, 224 S. Arthur, Pocatello, Idaho 83204.

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.

D. Additional Monitoring by the 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 results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.

E. Records Contents. Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;

4. 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 shall 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, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Regional Administrator or IDHW-DEQ at any time. Data collected on-site, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained on-site during the duration of activity at the permitted location.

G. **Notice of Noncompliance Reporting.**

1. Any noncompliance which may endanger health or the environment shall be reported as soon as the Permittee becomes aware of the circumstance. A written submission shall also be provided in the shortest reasonable period of time after the Permittee becomes aware of the occurrence.

2. The following occurrences of noncompliance shall also be reported in writing in the shortest reasonable period of time after the Permittee becomes aware of the circumstances:

   a. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part III.G., Bypass of Treatment Facilities.); or

   b. Any upset which exceeds any effluent limitation in the permit (See Part III.H., Upset Conditions.).

3. The written submission shall 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 reoccurrence of the noncompliance.

4. The Regional Administrator may waive the written report on a case-by-case basis if an oral report has been received within 24 hours by the Water Compliance Section in Seattle, Washington, by

phone, (206) 553-1213.

5. Reports shall be submitted to the addresses in Part II.B., Reporting of Monitoring Results.

H. **Other Noncompliance Reporting.** Instances of noncompliance not required to be reported in II.G. above shall be reported at the time that monitoring reports for Part II.B. are submitted. The reports shall contain the information listed in Part II.G.3.

I. **Inspection and Entry.** The Permittee shall allow the Regional Administrator, IDHW-DEQ, 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.

III. 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. The Permittee shall give advance notice to the Regional Administrator and IDHW-DEQ of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

B. **Penalties for Violations of Permit Conditions.**

1. Civil and Administrative Penalties. Sections 309(d) and 309(g) of the Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to an civil penalty, not to exceed $25,000 per day for each violation.

2. Criminal Penalties:

a. Negligent Violations. The Act provides that any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both.

b. Knowing Violations. The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both.

c. Knowing Endangerment. The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 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. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than $1,000,000.

d. False Statements. The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more that $10,000, or by imprisonment for not more than 2 years, or by both.

Except as provided in permit conditions in Part III.G., Bypass of Treatment Facilities and Part III.H., Upset Conditions, nothing in this permit shall be construed to relieve the Permittee of the civil or criminal penalties for noncompliance.

C. **Need to Halt or Reduce Activity not a Defense.** It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. **Duty to Mitigate.** The Permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. **Proper Operation and Maintenance.** The Permittee shall 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 a Permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. **Removed Substances.** Solids, sludges, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner so as to prevent any pollutant from such materials from entering navigable waters.

G. **Bypass of Treatment Facilities.**

1. Bypass not exceeding limitations. The Permittee may allow any bypass to occur which 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 shall submit prior notice, if possible at least 10 days before the date of the bypass.

   b. Unanticipated bypass. The Permittee shall submit notice of an unanticipated bypass as required under Part II.G., Notice of Noncompliance Reporting.

3. Prohibition of bypass.

   a. Bypass is prohibited and the Regional Administrator or IDHW-DEQ may take enforcement action against a Permittee for a bypass, unless:

      (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

      (2) 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 which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The Permittee submitted notices as required under paragraph 2 of this section.

b. The Regional Administrator and IDHW-DEQ may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator and IDHW-DEQ determine that it will meet the three conditions listed above in paragraph 3.a. of this section.

H. 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 requirements of paragraph 2 of this section are met. 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. A Permittee who wishes to establish the affirmative defense of upset shall 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 II.G., Notice of Noncompliance Reporting; and

   d. The Permittee complied with any remedial measures required under Part III.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.

I. Toxic Pollutants. The Permittee shall 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.

IV. GENERAL REQUIREMENTS

A. **Changes in Discharge of Toxic Substances.** Notification shall be provided to the Regional Administrator and IDHW-DEQ as soon as the Permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

   a. One hundred micrograms per liter (100 μg/l);

   b. Two hundred micrograms per liter (200 μg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 μg/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

   c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

   d. The level established by the Regional Administrator in accordance with 40 CFR 122.44(f).

2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

   a. Five hundred micrograms per liter (500 μg/l);

   b. One milligram per liter (1 mg/l) for antimony;

   c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

   d. The level established by the Regional Administrator in accordance with
   40 CFR 122.44(f).

B. **Planned Changes.** The Permittee shall give notice to the Regional

Administrator and IDHW-DEQ as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

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 which are subject neither to effluent limitations in the permit, nor to notification requirements under Part IV.A.1.

C. **Anticipated Noncompliance.** The Permittee shall also give advance notice to the Regional Administrator and IDHW-DEQ of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

D. **Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

E. **Duty to Reapply.** If the Permittee wishes 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. The application should be submitted at least 180 days before the expiration date of this permit.

F. **Duty to Provide Information.** The Permittee shall furnish to the Regional Administrator and IDHW-DEQ, within a reasonable time, any information which the Regional Administrator or IDHW-DEQ 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 shall also furnish to the Regional Administrator or IDHW-DEQ, upon request, copies of records required to be kept by this permit.

G. **Other Information.** When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Regional Administrator or IDHW-DEQ, it shall promptly submit such facts or information.

H. **Signatory Requirements.** All applications, reports or information submitted to the Regional Administrator and IDHW-DEQ shall be

signed and certified.

1. All permit applications shall 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, 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 the Regional Administrator or IDHW-DEQ shall 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 and submitted to the Regional Administrator and IDHW-DEQ, and

   b. The authorization specified 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. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

3. Changes to authorization. If an authorization under paragraph IV.H.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 paragraph IV.H.2. must be submitted to the Regional Administrator and IDHW-DEQ 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 shall 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."

I. **Availability of Reports.** Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator and IDHW-DEQ. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

J. **Oil and Hazardous Substance Liability.** 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 to which the Permittee is or may be subject under Section 311 of the Act.

K. **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 private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

L. **Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

M. **Transfers.** This permit may be automatically transferred to a new Permittee if:

1. The current Permittee notifies the Regional Administrator at least 30 days in advance of the proposed transfer date;

2. The notice includes a written agreement between the existing and new Permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

3. The Regional Administrator does not notify the existing Permittee and the proposed new Permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

PRELIMINARY DRAFT

N. **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.

V. DEFINITIONS

A. "Monthly Average 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.

B. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

C. "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.

D. "EPA" means the Environmental Protection Agency.

E. A "Grab" sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.

F. "IDHW-DEQ" means the Idaho Department of Health and Welfare - Division of Environmental Quality.

G. "NOEC" means the no observed effect concentration, which is the effluent concentration for which survival, reproduction, or growth of the test organisms is not significantly different (at the 95% confidence level) from that of the control organisms.

H. "Maximum daily discharge limitation" means the highest allowable "daily discharge".

I. "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.

J. "Upset" means an exception 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.