

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",

**South Fork Coeur d'Alene River Sewer District
Mullan Wastewater Treatment Plant
1020 Polaris Ave.
P.O. Box 783
Osburn, ID 83849**

is authorized to discharge from the Mullan Wastewater Treatment Plant through outfall 001 located in Mullan, Idaho, Shoshone County at Latitude 47° 27' 55" and Longitude 115° 48' 38" and to the South Fork Coeur d'Alene River.

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

This permit shall become effective August 1, 2004

This permit and the authorization to discharge shall expire at midnight, August 1, 2009

The permittee shall reapply for a permit reissuance on or before February 1, 2009 if the permittee intends to continue operations and discharges at the facility beyond the term of this permit.

Signed this 24th day of **June, 2004**

/s/ Robert R. Robichaud for
Michael F. Gearheard
Director, Office of Water Region 10
U.S. Environmental Protection Agency

TABLE OF CONTENTS

Cover Sheet--Issuance and Expiration Dates

I.	EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS	4
A.	Effluent Limitations and Monitoring Requirements	4
B.	Receiving Water Monitoring Requirements	8
C.	Quality Assurance Plan	9
II.	SPECIAL CONDITIONS	11
A.	Variance Requirements	11
B.	Best Management Practices	11
C.	Facility Planning	12
III.	MONITORING, RECORDING, AND REPORTING REQUIREMENTS	12
A.	Representative Sampling (Routine and Non-Routine Discharges)	12
B.	Reporting and Monitoring Results	12
C.	Monitoring Procedures	13
D.	Additional Monitoring by Permittee	13
E.	Records Contents	13
F.	Retention of Records	14
G.	Twenty-four Hour Notice of Noncompliance Reporting	14
H.	Other Noncompliance Reporting.	15
I.	Notice of New Introduction of Pollutants	15
IV.	COMPLIANCE RESPONSIBILITIES	16
A.	Duty to Comply	16
B.	Penalties for Violations of Permit Conditions	16
C.	Need to Halt or Reduce Activity not a Defense	18
D.	Duty to Mitigate	18
E.	Proper Operation and Maintenance	18
F.	Bypass of Treatment Facilities	18
G.	Upset Conditions	19
H.	Toxic Pollutants	20
I.	Planned Changes	20
J.	Anticipated Noncompliance	20
V.	GENERAL PROVISIONS	20
A.	Permit Actions	20
B.	Duty to Reapply	20
C.	Duty to Provide Information	21
D.	Other Information	21
E.	Signatory Requirements	21

F.	Availability of Reports	22
G.	Inspection and Entry	22
H.	Property Rights	23
I.	Transfers	23
J.	State Laws	23
K.	Reopener	23
VI.	DEFINITIONS AND ACRONYMS	23

I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Effluent Limitations and Monitoring Requirements.

During the effective period of this permit, the permittee is authorized to discharge from outfall 001 to the South Fork Coeur d'Alene (SFCDA) River within the limits and subject to the conditions set forth herein. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

1. The permittee must limit and monitor discharges from outfall 001 as specified in Table 2, below. All figures represent maximum effluent limits unless otherwise indicated. The permittee must comply with the effluent limits in the tables at all times unless otherwise indicated, regardless of the frequency of monitoring or reporting required by other provisions of this permit.
2. There shall be no discharge of floating, suspended or submerged matter such that it causes a nuisance or objectionable condition or impairs designated beneficial uses.
3. Surface waters of the state shall be free from excess nutrients that can cause visible slime growths or other nuisance aquatic growths impairing designated beneficial uses.
4. The pH range shall be between 6.5 - 9.0 standard units at all times. The permittee shall report the number of excursions during the month with the discharge monitoring report (DMR) for each month.
5. Removal Requirements for 5-day biochemical oxygen demand (BOD₅) and Total Suspended Solids (TSS): The monthly average effluent concentration must not exceed **15 percent** (%) of the monthly average influent concentration.

Percent removal of BOD₅ and TSS must be reported on the monthly 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. Cadmium, Lead and Zinc Variance. While the variance is in effect the permittee must submit annual Reports of Progress to EPA and Idaho Department of Environmental Quality (IDEQ) consistent with Section II of the permit.
7. Compliance Schedule for Chlorine.
 - a. The permittee must comply with the average monthly and maximum daily chlorine effluent limitations in Table 2 containing a footnote 6 on or before **July 31, 2009**
 - b. While the compliance schedule is in effect, the permittee must submit annual Reports of Progress to EPA and IDEQ. The Reports of Progress shall outline the progress made towards achieving compliance with the final limits. The reports must be submitted by January 10th of each year. At a minimum the reports must include:
 1. An assessment of the previous years data and a comparison to the final effluent limitations.
 2. A report on progress made toward meeting the final effluent limitations.
 3. Further actions and milestones targeted for the upcoming year.
 - c. The final compliance report shall be submitted by **July 31, 2009**.
8. The permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
9. Method Detection Limits and Minimum Levels. For all effluent monitoring (except total residual chlorine), the permittee must use methods that can achieve a Method Detection Limit (MDL) less than the effluent limitation. For parameters without effluent limitations, as well as chlorine, the permittee must use methods that can achieve MDLs or Minimum Levels (MLs) less than or equal to those specified in Table 1.

Table 1: Minimum Levels			
Parameter	Units	Method Detection Level	Minimum Level
Cadmium, total recoverable	µg/L	0.1	---
Chlorine, total residual	µg/L	---	100
Lead, total recoverable	µg/L	10	---
Nitrate-Nitrite as N	mg/L	---	0.1
Phosphorus, total	mg/L	0.06	---
Total Kjeldahl Nitrogen	mg/L	---	0.05
Zinc, total recoverable	µg/L	20	---

Table 2 - Effluent Limitations and Monitoring Requirements for Outfall 001					
Parameter¹	Effluent Limitations			Monitoring Requirements²	
	Maximum Daily	Average Weekly	Average Monthly	Sample Frequency	Sample Type
Effluent or Influent Flow, mgd	---	---	Report	Continuous	Recorder
BOD ₅	---	45 mg/L 113 lbs/day	30 mg/L 75 lbs/day	1/week	24-hour composite
TSS	---	45 mg/L 176 lbs/day	30 mg/L 67.4 lbs/day	1/week	24-hour composite
pH, standard units	See Section I.A.4			5/week	Grab
E. coli	576/100 ml ⁴	---	126/100 ml	5/month ³	Grab
Total Ammonia (as N)	20.2 mg/L ⁵ 93 lbs/day	---	8.95 mg/L 41 lbs/day	1/week	24-hour composite
Total Residual Chlorine	55.0 µg/L ^{5,6,7} 0.25 lbs/day ^{5,6}	---	33.0 µg/L ^{6,7} 0.15 lbs/day ⁶	5/week	Grab
Cadmium ⁸	11.0 µg/L ⁵ 0.05 lbs/day ⁵	---	5.5 µg/L 0.025 lbs/day	1/month	24-hour composite
	1.37 µg/L ^{5,6} 0.0063 lbs/day ^{5,6}	---	0.936 µg/L ⁶ 0.0043 lbs/day ⁶		
Lead ⁸	---	---	---	1/month	24-hour composite
Zinc ⁸	3682 µg/L ⁵ 17 lbs/day ⁵	---	1610 µg/L 7.4 lbs/day	1/month	24-hour composite
	153 µg/L ^{5,6} 0.70 lbs/day ^{5,6}	---	95.9 µg/L ⁶ 0.44 lbs/day ⁶		
Hardness as CaCO ₃ , mg/L	Report	---	---	1/quarter	Grab
Temperature, °C	Report	---	--	2/month	Grab
Nitrate-Nitrite as N, mg/L	Report	---	---	1/month	Grab
Total Kjeldahl Nitrogen, Mg/L	Report	---	---	1/month	Grab
Total Phosphorus, mg/L	Report	---	---	1/month	Grab

Table 2 - Effluent Limitations and Monitoring Requirements for Outfall 001					
Parameter¹	Effluent Limitations			Monitoring Requirements²	
	Maximum Daily	Average Weekly	Average Monthly	Sample Frequency	Sample Type
Footnotes:					
1	If the discharge concentration falls below the method detection level (MDL), the Permittee shall report the effluent concentration as "less than {numerical MDL}" on the discharge monitoring report (DMR). Actual analytical results shall be reported on the DMR when the results are greater than the MDL. For averaging, samples below the MDL shall be assumed equal to zero (except for E. coli). The Permittee shall report the number of non-detects for the month in the "Comment Section" of the DMR.				
2	The sample location shall be effluent for all parameters except BOD and TSS. Both influent and effluent BOD and TSS shall be monitored.				
3	A geometric mean shall be calculated using a minimum of five samples taken every three (3) to five (5) days over a thirty day period. If a sample is taken that is less than the MDL than the MDL shall be used for purposes of calculating the geometric mean.				
4	The effluent limit is an instantaneous maximum limit (not maximum daily limit).				
5	Reporting is required within 24 hours of a maximum daily limit violation. See Part III.G.				
6	The concentration and mass-based effluent limits apply July 31, 2009 .				
7	The effluent limit for total residual chlorine is not quantifiable using EPA approved test methods. Therefore, the EPA will use the minimum level (ML) of 100 µg/L as the compliance evaluation level. If the test method indicates a value less than the ML, then the compliance evaluation level for the average monthly and maximum daily limits are 0.46 lbs/day.				
8	These parameters must be reported and analyzed as total recoverable.				

B. Receiving Water Monitoring Requirements. The permittee must conduct surface water monitoring. Surface water monitoring is required beginning **December 1, 2009**. The program must meet the following requirements:

1. Monitoring stations must be established in the SFCDA River 1) directly above the influence of the facility's discharge and 2) below the facility's discharges at a point where the effluent and the receiving water are completely mixed.

Monitoring stations must be approved by IDEQ.

2. To the extent practicable, surface water sample collection must occur on the same day as effluent sample collection.

3. Samples must be analyzed for the parameters listed in Table 3.

Table 3 - Receiving Water Monitoring Requirements			
Parameter	Monitoring Location	Sampling Frequency¹	Sampling Type
Total Ammonia as N, mg/L	upstream of 001 in SF Coeur d'Alene River	2/year	Grab
Total Residual Chlorine, µg/L	upstream of 001 in SF Coeur d'Alene River	2/year	Grab ²
Temperature, °C	downstream of 001 in SF Coeur d'Alene River	2/year	Grab
pH, s.u.	downstream of 001 in SF Coeur d'Alene River	2/year	Grab
Total Phosphorus, mg/L	upstream of 001 in SF Coeur d'Alene River	2/year	Grab ²
Footnotes:			
1 One of the yearly ambient samples shall be taken between June and August. The other yearly sample shall be taken between the months of September and November.			
2 Sampling for chlorine and phosphorus must achieve the MDLs in Table 1.			

4. Quality assurance/quality control plans for all the monitoring must be documented in the Quality Assurance Plan required under Part I.C., Quality Assurance Plan.
5. Receiving water monitoring results must be submitted to EPA and IDEQ with the following month's discharge monitoring report. At a minimum, the results must include the following:
- a. Dates of sample collection and analyses.
 - b. Results of sample analysis.
 - c. Relevant quality assurance/quality control (QA/QC) information

C. Quality Assurance Plan. The permittee must develop and implement a quality assurance plan (QAP) for all monitoring required by this permit. The plan must be completed and implemented within **December 1, 2009**. Any existing QAPs may be modified for consistency with this section and permit.

1. The QAP must be designed to assist in planning for the collection and analysis of effluent and receiving water samples in support of the permit and in explaining data anomalies when they occur.

2. Throughout all sample collection and analysis activities, the permittee must use the EPA-approved QA/QC and chain-of-custody procedures described in *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 which is specified in these documents.

The following references may be helpful in preparing the Quality Assurance Plan for this permit:

U.S. Environmental Protection Agency, Method 1669: Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels, 1995 (EPA-821-R-95-034), and

U.S. Environmental Protection Agency, Sampling Ambient and Effluent Waters for Trace Metals (EPA-821-V-97-001).

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 test methods, analytical method detection and quantification limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.
 - b. Map(s) indicating the location of each sampling point.
 - c. Qualification and training of personnel.
 - d. Name(s), address(es) and telephone number(s) of the laboratories, used by or proposed to be used by the permittee.
4. The permittee must amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP.
5. Copies of the QAP must be kept on site and made available to EPA and/or IDEQ upon request.

II. SPECIAL CONDITIONS

A. Variance Requirements

The permittee must achieve the alternate effluent concentrations of cadmium, lead, and zinc as specified in Table 2 and identify and correct the sources of inflow and infiltration (I/I) to the collection system to the extent that sanitary sewer overflows are eliminated.

The permittee must submit annual reports by **January 10th of each year** to EPA and IDEQ that demonstrate compliance with the following requirements:

1. Identify the source and significant contributors of metals and I/I to the treatment plant. A demonstration project report identifying the source of metals and I/I and how to reduce those sources will be submitted to EPA and DEQ by **December 31, 2004**.
2. Reestablish the interagency agreement with the City of Mullan by **September 1, 2009**. The interagency agreement shall include a compliance schedule that commits the City to correcting the deficiencies in the collection systems and specific I/I reduction tasks. The compliance schedule will be in place and submitted to EPA and DEQ by **July 1, 2006**.
3. Submit a report to EPA and DEQ verifying the reduction in excess flows due to the demonstration project by **October 31, 2005**.
4. Correct significant contributors of I/I that were identified in the collection systems by **July 31, 2009** such that sanitary sewer overflows (SSOs) are eliminated. A detailed report outlining what upgrades were necessary shall be submitted to EPA by **August 14, 2009**.

B. Best Management Practices

Best management practices (BMP) must be incorporated into the permittee's Operation and Maintenance plan by **February 1, 2005**. The following specific BMPs must be addressed:

- a. Solids, sludges, or other pollutants removed in the course of treatment or control of water and wastewaters must be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.
- b. Spill prevention and control, optimization of chemical use, public education

aimed at controlling the introduction of household hazardous materials to the sewer system, and water conservation.

C. Facility Planning

The average design flow criteria and design influent load for BOD and TSS for the Mullan Wastewater Treatment facility is 0.55 mgd and 75 lbs/day respectively. Each month, the permittee shall compute an annual average value for flow and BOD and TSS loads entering the facility based on the previous twelve months data. If the average annual value exceeds 85% of either design criteria (i.e., if flow exceeds 0.47 mgd or TSS or BOD exceeds 64 lbs/day) the permittee shall notify EPA and IDEQ and develop a facility plan and schedule of improvements by **one year from the date of first exceedence**. The plan must include the permittee's strategy for continuing to maintain compliance with effluent limits and will be made available to the Director or authorized representative upon request.

III. MONITORING, RECORDING, AND REPORTING REQUIREMENTS

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

- a. Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.
- b. In order to ensure that the effluent limitations 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.A ("Effluent Limitations and Monitoring Requirements") of this permit that are likely to be affected by the discharge.
- c. The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with paragraph III.C ("Monitoring Procedures"). The permittee must report all additional monitoring in accordance with paragraph III.D ("Additional Monitoring by Permittee").

- B. Reporting and Monitoring Results.** The permittee must summarize monitoring results each month on the DMR form (EPA NO. 3320-1) or equivalent or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices. 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 (“Signatory Requirements”) of this permit. The permittee must submit the legible originals of these documents to the Director, Office of Water, with copies to the IDEQ at the following addresses:

United States Environmental Protection Agency, Region 10
1200 Sixth Avenue, OW-133
Seattle, Washington 98101

Idaho Department of Environmental Quality
Coeur d’Alene Regional Office
2110 Ironwood Parkway
Coeur d’Alene, Idaho 83814

- C. **Monitoring Procedures.** Monitoring must be conducted according to test procedures approved under 40 CFR 136 or, in the case of sludge use or disposal, approved under 40 CFR 136 unless otherwise specified in 40 CFR 503, unless other test procedures have been specified in this permit.
- D. **Additional Monitoring by Permittee.** If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or, in the case of sludge use or disposal, approved under 40 CFR 136 unless otherwise specified in 40 CFR 503, 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 or sludge reporting form specified by the Director. Upon request by the Director, 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.** Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of five years (or longer as required by 40 CFR 503), the permittee must retain records of all other 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 this NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Director or IDEQ at any time.
- G. **Twenty-four Hour Notice of Noncompliance Reporting**
1. The permittee must report the following occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances:
 - a. any noncompliance that may endanger health or the environment;
 - b. any unanticipated bypass that exceeds any effluent limitation in the permit (See section IV.F, "Bypass of Treatment Facilities");
 - c. any upset that exceeds any effluent limitation in the permit (See section IV.G, "Upset Conditions");
 - d. any violation of a maximum daily discharge limitation for any of the pollutants in Table 2 of section I of the permit requiring 24-hour reporting; or
 - e. any sanitary sewer overflow prior to the treatment works, whether or not such overflow endangers health or the environment or exceeds any effluent limitation in the permit.
 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 (including location) 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;

- d. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and
 - e. if the noncompliance involves an overflow prior to the treatment works, an estimate of the quantity (in gallons) of untreated flow.
3. The Director 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 and 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 and Monitoring Results”) are submitted. The reports must contain the information listed in Section III.G.A.2 (“Twenty-four Hour Notice of Noncompliance Reporting”) of this permit.
- I. **Notice of New Introduction of Pollutants.** The permittee must provide adequate notice to the Director and IDEQ of:
1. Any introduction of new pollutants into the POTW from an indirect discharger which would be subject to section 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 that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 3. For purposes of this section, adequate notice shall include information on:
 - a. the quality and quantity of effluent 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.

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; for denial of a permit renewal application.

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

1. **Civil Penalties.** Pursuant to 40 CFR 19 and the Act, any person who violates section 301, 302, 306, 307, 308, 318 or 405 or 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 \$27,500 per day for each violation).
2. **Administrative Penalties.** Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$27,500). Pursuant to 40 CFR 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$137,500).
3. **Criminal Penalties.**
 - a. **Negligent Violations.** The Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 or the Act, or any condition or limitation implementing any of such section in a permit issued under section 402 of the Act, or any

requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

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

- c. **Knowing Endangerment.** Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$100,000,000 and can be fined up to \$2,000,000 for a second or subsequent convictions.

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

by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

- C. **Need to Halt or Reduce Activity not a Defense.** It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this permit.
- D. **Duty to Mitigate.** The permittee must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal 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 notice to the Director and IDEQ, if possible at least 10 days before the date of 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 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 may approve an anticipated bypass, after considering its adverse effects, if the Director determine 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 causes(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 and with standards for sewage sludge use or disposal established under section 405(d) of the Act within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- I. **Planned Changes.** The permittee must give notice to the Director and IDEQ as soon as possible of any planned physical alterations or additions to the permitted facility whenever:
1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or
 2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this permit.
 3. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- J. **Anticipated Noncompliance.** The permittee must give advance notice to the Director and IDEQ of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

V. GENERAL PROVISIONS

- A. **Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR 122.62, 122.64, or 124.5. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- B. **Duty to Reapply.** If the permittee intends to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. In accordance with 40 CFR 122.21(d), and unless permission for the application to be submitted at a later date has been granted by the Director, the permittee must submit a new application on or before **February 1, 2009**.
- C. **Duty to Provide Information.** The permittee must furnish to the Director and IDEQ,

within any reasonable time specified in the request, any information that the Director or IDEQ 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 the Director or IDEQ, 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 in any report to the Director IDEQ, it must promptly submit such facts or information.
- E. **Signatory Requirements.** All application, reports or information submitted to the Director and IDEQ 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, 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 Director or IDEQ 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 and IDEQ.
 3. Changes to authorization. If an authorization under section VI.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 VI.E must be submitted to the Director and IDEQ 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 2, information submitted to EPA pursuant to this permit may be claimed as confidential by the permittee. In accordance with the Act, permit applications, permits and effluent data are not considered confidential. Any confidentiality claim must be asserted at the time of submission by stamping the words “confidential business information” on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice to the permittee. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR 2, Subpart B (Public Information) and 41 Fed. Reg. 36902 through 36924 (September 1, 1975), as amended.
- G. **Inspection and Entry.** The permittee must allow the Director, IDEQ, 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 state or local laws or regulations.
- I. **Transfers.** This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory.)
- J. **State Laws.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by section 510 of the Act.
- 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.

VI. DEFINITIONS AND ACRONYMS

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. For pollutants other than fecal coliform bacteria, the average monthly discharge shall be calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month. For fecal coliform bacteria, the average monthly discharge shall be calculated as a geometric mean.

4. "Average weekly discharge limitation" means the highest allowable average of "daily discharges" over a calendar week. For pollutant other than fecal coliform bacteria, the average weekly discharge shall be calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week. For fecal coliform bacteria, the average weekly discharge shall be calculated as a geometric mean.
5. "Best Management Practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.
6. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
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" means the Director of the Office of Water, EPA, or an authorized representative.
9. "DMR" means discharge monitoring report.
10. "EPA" means the United States Environmental Protection Agency.
11. "Grab" sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.
12. "IDEQ" means the Idaho Department of Environmental Quality.
13. "Instantaneous Maximum Limit" means the maximum allowable concentration of a pollutant determined from the analysis of any discrete sample collected, independent of the flow rate and the duration of the sampling event.
14. "Maximum daily discharge limitation" means the highest allowable "daily discharge."
15. "Method Detection Limit (MDL)" means the minimum concentration of a substance

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 given matrix containing the analyte.

16. "Minimum Level (ML)" means the concentration at which the entire analytical system gives recognizable signals and an acceptable calibration point.
17. "No observed effect concentration (NOEC)" is the highest tested concentration of an effluent at which adverse effects are observed on the test organisms at the specific time of observation.
18. "POTW" means publicly owned treatment works.
19. "QA/QC" means quality assurance/quality control.
20. "Regional Administrator" means the EPA Region 10 Regional Administrator, or an authorized representative.
21. "Sanitary Sewer Overflow" (SSO) means an overflow, spill, release, or diversion of wastewater from a sanitary sewer collection system designed to carry only sewage and prior to reaching the treatment plant. SSOs may or may not reach waters of the United States and include wastewater backups into residences and/or buildings other than a building lateral.
22. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
23. "SFCDA" means South Fork Coeur d'Alene.
24. A "24-hour composite" sample shall mean a flow proportioned mixture of not less than 8 discrete aliquots. Each aliquot shall be a grab sample of not less than 100 ml and shall be collected and stored in accordance with procedures prescribed in the most recent edition of Standard Methods for the Examination of Water and Wastewater.
25. "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.

