0045

C/007/011 Incoming
CC: April
Steve D
R

State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

December 14, 2009

CERTIFIED MAIL
(Return Receipt Requested)

Elliot Finley, President
Hiawatha Coal Company
P.O. Box 1240
Huntington, UT 84528

Dear Mr. Finley:

Subject: UPDES Permit No. UT0023094, Hiawatha Coal Company

Enclosed is UPDES permit No.UT0023094 for your facility. Copies of EPA form 3320-1, Discharge Monitoring Report (DMR) forms, for reporting and self-monitoring requirements as specified in the permit, will be sent as soon as printed. This permit will become effective on January 1, 2010, subject to the right of appeal in accordance with the provisions of *Utah Administrative Code*, Section R317-9.

A fee schedule was included in the Utah Department of Environmental Quality Budget appropriation request at the direction of the Legislature and in accordance with *Utah Code Annotated* 19-1-201. The fee schedule, as approved by the legislature, includes a prescribed fee for specific Industrial Categories. The prescribed fee for a Coal Mining and Preparation category, Utah Pollutant Discharge Elimination System permit is $3,600. Please remit $3,600 within 30 days from receipt of this letter to:

Dept. of Environmental Quality
Division of Water Quality
Attn: Jalynn Knudsen
288 North 1460 West
P.O. Box 144870
Salt Lake City, Utah 84114-4870

Also, the Utah Division of Water Quality values your feedback as a customer. DWQ Director, Walter L. Baker, is committed to continuously assessing and improving the level and quality of services

288 North 1460 West • Salt Lake City, UT
Mailing Address: P.O. Box 144870 • Salt Lake City, UT 84114-4870
Telephone (801) 538-6146 • Fax (801) 538-6016 • T.D.D. (801) 536-4414
www.deq.utah.gov
Printed on 100% recycled paper

RECEIVED
DEC 16 2009
DIV. OF OIL, GAS & MINING

provided to you. Please take a few minutes to comment on the quality of service you received by completing the feedback form located on DWQ's webpage at www.waterquality.utah.gov. Thank you for assisting us in improving our service to you.

If you have any questions with regard to this matter, please contact Kim Shelley at 801-538-6065.

Sincerely,

John Kennington, P.E., Manager
UPDES Engineering Section

JK:KS:mc

Enclosures

cc: Qian Zhang, P.E., EPA Region VIII (w/ encl)
Claron Bjork, Southeastern Health Department (w/o encl)
April Abate, Division of Gas Oil and Mining (w/ encl)
David Ariotti, District Engineer (w/o encl)
Jalynn Knudsen, DWQ Accounts (w/o encl)
Mark Reynolds, Hiawatha Coal, (w/ encl)

FACT SHEET STATEMENT OF BASIS
HIAWATHA COAL COMPANY
RENEWAL PERMIT: DISCHARGE AND STORMWATER
UPDES PERMIT NUMBER: UT0023094
MINOR INDUSTRIAL

FACILITY CONTACT

Elliot Finley, President
Hiawatha Coal Company
P.O. Box 1240
Huntington, UT 84528

Phone: (435) 687-5777

DESCRIPTION OF FACILITY

This facility consists of an inactive underground coal mine. It is located in Hiawatha, Utah in Township 16 South, Range 8 East in Emery County and in Township 15 South, Range 8 East in Carbon County. It has a Standard Industrial Classification (SIC) code 1221. The facility has 13 outfalls. Discharge of mine water drainage occurs continuously from outfall 001. A portion of that mine water from Outfall 001 is piped to Hiawatha for drinking water. The surplus drinking water that is not used is discharged from outfall 002. The remaining discharge points, outfalls 003 to 013, are at the overflows from sediment ponds that collect storm water. These outfalls are designed to contain and prevent a discharge of up to a 100 year storm event.

SUMMARY OF CHANGES FROM PREVIOUS PERMIT

The effluent limitation for TDS has been changed from 350 tons per year in the previous permit to a daily max of 1 ton per day or 366 tons per year in the renewal permit in accordance with the Colorado River Basin Salinity Control Forum (CRBSCF).

TOTAL MAXIMUM DAILY LOAD CONSIDERATIONS

Due to high concentrations of total dissolved solids (TDS) several portions and/or tributaries of the Price River are non-supporting or partially supportive of their beneficial use classifications. As a result, a total daily maximum load (TMDL) was developed by the Division of Water Quality for the West Colorado Watershed and approved by EPA in 2004. This TMDL allocates an annual TDS load of 941 tons and a daily maximum effluent concentration of 981 mg/L TDS for Hiawatha Coal.

DESCRIPTION OF DISCHARGE

The discharge consists of intercepted ground water and storm water, when there is a storm large enough to fill the sediment ponds. Ground water is not treated prior to discharge. Storm water is treated via settling ponds prior to being discharged.

Three years of self-monitoring data are included as an addendum to this permit.

Outfall	Description of Discharge Point
001	Mohrland Portal Discharge: T16S, R8E SLBM, Sec. 8, at approximately longitude 111° 03' 0" and latitude 39° 27' 50". The discharge is from mine water seepage.
002	Culinary Water Overflow: T15S, R8E SLBM, Sec. 34, at approximately longitude 111° 01' 0"and latitude 39° 28' 50". The discharge is overflow from the Hiawatha drinking water system. Hiawatha drinking water is from the Mohrland Portal discharge.
003	Hiawatha Sediment Pond D003: T15S, R8E SLBM, Sec 27, at approximately longitude 111° 0' 50" and latitude 39° 29' 0". The discharge is surface runoff from the Upper Rail Storage Yard Borrow area.
004	Slurry Pond #1 Sediment Pond: T15S, R8E SLBM, Sec 26, at approximately 111° 0' 10" and latitude 39° 29' 20". The discharge is surface runoff from the disturbed area of the Ridge Borrow area.
005	Slurry Pond #4 Sediment Pond: T15S, R8E SLBM, Sec 27, at approximately 111° 0' 30" and latitude 39° 28' 45". The discharge is surface runoff from slurry pond #4.
006	Hiawatha Sediment Pond D006: T15S, R8E SLBM, Sec 34, at approximately 111° 0' 15" and latitude 39° 28' 35". The discharge is surface runoff from slurry pond #5 cell 5A.
007	Hiawatha Sediment Pond D007: T15S, R8E SLBM, Sec 34, at approximately 111° 0' 10" and

latitude 39° 28' 20". The discharge is surface runoff from slurry pond #5 main cell.

008	Middle Fork Sediment Pond: T15S, R8E SLBM, Sec 29, at approximately 111° 02' 40" and latitude 39° 29' 0". The discharge is surface runoff from the Middle Fork Mine Yard.
009	South Fork Mine Yard: T15S, R8E SLBM, Sec 19, at approximately 111° 02' 35" and latitude 39° 28' 50". The Discharge is surface runoff from the South Fork Mine Yard.
010	King 4 Mine Discharge: T15S, R7E SLBM, Sec 32, at approximately 111° 03' 45" and latitude 39° 32' 15". The Discharge is from sump locations within the mine.
011	South Fork Truck Loading Facility: T15S, R8E SLBM, Sec 33, at approximately 111° 02' 28" and latitude 39° 28' 47". The Discharge is surface runoff from the South Fork Loading facility.
012	Mohrland Pipeline Drain: T15S, R8E SLBM, Sec 10, at approximately 111° 0' 45" and latitude 39° 26' 30". The discharge is from a valve on the Mohrland Pipeline.
013	King 6 Water Tank Overflow: T15S, R8E SLBM, Sec 32, at approximately 111° 03' 07" and latitude 39° 29' 0". The discharge is from an overflow pipe from the King 6 water tank in South Fork Canyon.

RECEIVING WATERS AND STREAM CLASSIFICATION

Outfall 001 discharges to Cedar Creek which flows to Huntington Creek. Outfall 002 discharges to Miller Creek, then to the Price River. Outfalls 003 through 013 discharge to Miller Creek but did not discharge during the last permit cycle. The receiving waters as designated by *Utah Administrative Code (UAC) R317-2-13* are as follows:

Cedar Creek:	Class 2B, 3C and 4
Huntington Creek:	Class 2B, 3C and 4
Miller Creek:	Class 2B, 3C and 4
Price River:	Class 2B, 3C and 4

Class 2B -Protected for secondary contact recreation (boating, wading and similar uses).

Class 3C -Protected for nongame fish and other aquatic life, including the necessary aquatic organisms in their food chain.

Class 4 -Protected for agricultural uses including irrigation of crops and stock watering.

BASIS FOR EFFLUENT LIMITATIONS

The settleable solids limitation is based on applicable technology based standards in the Coal Mining Point Source Category, 40 CFR 434. The oil and grease and no visible sheen limitations are based on best professional judgment. The iron limit is based on Utah Water Quality Standards for a 3C water body. The total suspended solids (TSS) monthly and weekly average limits are based on secondary standards. The daily max effluent of 70 mg/L is based on the effluent guidelines in 40 CFR 434. The pH limits are based on current Utah Secondary Treatment Standards. The TDS concentration limitation is based on the West Colorado Watershed TMDL.

Discharges from the facility could potentially reach the Colorado River, which places it under the requirements of the Colorado River Basin Salinity Control Forum (CRBSCF). TDS loading is limited by the CRBSCF pursuant to the February 1977 "Policy for Implementation of Colorado River Salinity Standards through the NPDES Permit Program" (Policy). In accordance with the CRBSCF, the effluent will be limited to a maximum discharge of 1.0 ton per day or 366 tons per year. The permit limitations are as follows:

Effluent Limitations for Outfalls 001 through 013				
Parameter	Monthly Average	Weekly Average	Daily Minimum	Daily Maximum
TSS, mg/L	25	35	NA	70
pH, SU	NA	NA	6.5	9.0
Oil and Grease, mg/L	NA	NA	NA	10
TDS, mg/L	NA	NA	NA	981
TDS, tons/day/year a/	NA	NA	NA	1.0 / 366
Iron, mg/L	NA	NA	NA	1.0

NA – Not Applicable

a/ In addition to the TDS effluent concentration limitation, TDS effluent loading is limited to one-ton/day. If the 1 ton/day effluent loading limitation cannot be met, then the permittee is limited to 366-tons/year total TDS effluent loading from the facility. It is the responsibility of the permittee to maintain annual TDS loading information and submit to the Executive Secretary the annual TDS loading information.

For outfalls 003 through 013, any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the

following limitations instead of the total suspended solids limitations contained above.

Effluent Limitations for Outfalls 003 through 013		
Effluent Characteristics	Daily Maximum	Daily Minimum
Settleable Solids, ml/L	0.5	NA

SELF-MONITORING AND REPORTING REQUIREMENTS

The following effluent self-monitoring and reporting requirements are the same as in the previous permit. Reports shall be made on Discharge Monitoring Report (DMR) forms and are due 28 days after the end of the monitoring quarter.

Self-Monitoring and Reporting Requirements for Outfalls 001 Through 013				
Parameter	Frequency	Sample Type	Units	Reporting Frequency
Total Flow	Quarterly	Instantaneous	MGD	Quarterly
TSS	Quarterly	Grab	mg/L	Quarterly
pH	Quarterly	Grab	mg/L	Quarterly
Oil and Grease	Quarterly	Grab	mg/L	Quarterly
TDS	Quarterly	Grab	mg/L	Quarterly
TDS	Annually	Calculated	tons/year	Yearly
Iron	Quarterly	Grab	mg/L	Quarterly

STORM WATER REQUIREMENTS

The renewal permit will contain provisions for storm water discharges as in the previous permit. The storm water requirements are based on the UPDES Multi-Sector General Permit for Storm Water Discharges.

PRETREATMENT REQUIREMENTS

This facility does not discharge process wastewater to a sanitary sewer system. Any process wastewater that the facility may discharge to the sanitary sewer, either as a direct discharge or as a hauled waste, is subject to federal, state, and local pretreatment regulations. Pursuant to section 307 of the Clean Water Act, the permittee shall comply with all applicable federal general pretreatment regulations promulgated, found in 40 CFR 403, the state's pretreatment requirements found in UAC R317-8-8, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the waste.

BIOMONITORING REQUIREMENTS

As part of a nationwide effort to control toxic discharges, biomonitoring requirements are being included in permits for facilities where effluent toxicity is an existing or potential concern. In Utah, this is done in accordance with the *State of Utah Permitting and Enforcement Guidance Document*

for Whole Effluent Toxicity (WET) Control (biomonitoring). Authority to require effluent biomonitoring is provided in *Permit Conditions, UAC R317-8-4.2, Permit Provisions, UAC R317-8-5.3* and *Water Quality Standards, UAC R317-2-5* and *R317 -2-7.2.*

The permittee is a minor industrial discharger that will be contributing a relatively small volume of effluent, when compared to the flows of existing receiving waters, in which toxicity is not an existing concern and not likely to be present as long as the effluent limitations are met. Also, the mine water discharge has been a source of drinking water for many years and the result of the wasteload analysis was a finding of no significant impact. Based on these considerations, and that the facility is not classified as a major or a significant minor facility, there is no reasonable potential for toxicity in the Hiawatha Coal's discharge *(per State of Utah Permitting and Enforcement Guidance Document for WET Control).* As such, there will be no numerical WET limitations or WET monitoring requirements in this permit. However, the permit will contain a toxicity limitation re-opener provision that allows for modification of the permit should additional information indicate the presence of toxicity in the discharge.

PERMIT DURATION

It is recommended that this permit be effective for a duration of five (5) years.

Drafted by:
Kim Shelley, Discharge
Jeff Studenka, Biomonitoring and Colorado River Salinity
Mike George, Storm Water
Utah Division of Water Quality

PUBLIC NOTICE

Began: November 3, 2009
Ended: December 3, 2009
Public Noticed in The Sun Advocate.

There were no comments received during the public notice period.
December 7, 2009

Outfall 001

Date	Flow	TSS			pH		Oil/Grease	TDS	TDS	Iron
	MGD 30 Day Avg	25 mg/L 30 Day Avg	35 mg/L 7 Day Avg	70 mg/L Daily Max	6.5 SU Daily Min	9 SU Daily Max	10 mg/L Daily Max	1200 mg/L Daily Max	350 tons Annual tot.	1 mg/L Daily Max
3/31/06	0.4392	5	5	5	6.83	7.14	No sheen	750	124	0.05
6/30/06	0.2872	7	7	7	6.9	7.25	No sheen	731	202	0.05
9/30/06	0.4614	5	5	5	69.2	72.9	No sheen	715	326	0.07
12/31/06	0.3354	5	5	5	7.1	7.4	No sheen	765	**423**	0.1
3/31/07	0.3343	8	8	8	6.86	7.6	No sheen	743	93	0.07
6/30/07	0.5496				7.1	8.1	No sheen	766	251	0.07
9/30/07	0.1789	5	5	5	6.3	7.1	No sheen	751	302	0.03
12/31/07	0.1156	0.5	0.5	0.5	6.8	7.4	No sheen	755	334	0.1
3/31/08	0.3989	7	7	7	7.3	7.5	No sheen	765	115	0.1
6/30/08	0.3613	0.5	0.5	0.5	7	7.6	0.2	756.33	217	0.07
9/30/08	0.1319	5	5	5	7.35	7.35	No sheen	764	255	0.05
12/31/08	0.1374	5	5	5	7.4	7.08	No sheen	770	295	0.05

Outfall 002

Date	Flow	TSS			pH		Oil/Grease	TDS	TDS	Iron
	MGD 30 Day Avg	25 mg/L 30 Day Avg	35 mg/L 7 Day Avg	70 mg/L Daily Max	6.5 SU Daily Min	9 SU Daily Max	10 mg/L Daily Max	1200 mg/L Daily Max	350 tons Annual tot.	1 mg/L Daily Max
3/31/06	0.0792	5	5	5	4.97	7.27	No sheen	752	22	0.05
6/30/06	0.0672	5	5	5	7.1	7.76	No sheen	729	41	0.05
9/30/06	0.0552	5	5	5	6.9	7.14	No sheen	709	55	0.06
12/31/06	0.084	5	5	5	7.1	7.3	No sheen	740	79	0.05
3/31/07	0.0768	5	5	5	7	7.9	No sheen	748	22	0.08
6/30/07	0.2472				7.4	7.4	No sheen			
9/30/07	0.223	5	5	5	7.3	7.4	No sheen	744	167	0.03
12/31/07	0.444	0.5	0.5	0.5	6.3	7.3	No sheen	750	292	0.09
3/31/08	0.1032	18	18	18	7.3	7.5	2	767	30	0.11
6/30/08	0.155	5	5	5	7.5	7.6	2	759.67	74	0.2
9/30/08	0.0672	134	134	134	7.65	7.65	No sheen	753	93	0.3
12/31/08	0.087	5	5	5	7.7	7.82	No sheen	769	130	0.05

Outfalls 003-013 did not discharge during this time frame.
DMR submitted for second quarter 2007 was incomplete.
Facility has not submitted any DMRs in 2009.
Bold indicates an effluent violation.

Utah Division of Water Quality
Salt Lake City, Utah

ADDENDUM
Statement of Basis (Wasteload Analysis & TMDL)
Level I Antidegradation Review

Date: July 6, 2009

Facilities: Hiawatha Coal Co. [UT-00139094]
Hiawatha Town Tank – Miller Creek
Moreland Mine Portal
Hiawatha, Utah

Receiving water: Dry Wash, Price Water Drainage

Finding of Insignificant Impact – Negative Declaration

The discharge from the above listed facility was evaluated for impact to its receiving water.

It has been determined that this discharge will not cause a violation of water quality standards (Utah Water Quality Standards, R317-2-3.5.3.b. Utah Administrative Code in downstream receiving waters. Therefore, a wasteload allocation based upon water quality numeric criteria is not required.

Permit limits should be set according to rules found in R-317-1.

Antidegradation Level I Review

An Anti-degradation Level II review is not required since the water quality of the receiving water will not be degraded by the proposed activity (e.g., a discharge to a dry wash where the effluent will not reach a stream or river; or, a UPDES permit is being renewed and the proposed effluent concentration value and pollutant loading is equal to or less than the existing effluent concentrations value and pollutant loading. [R317-2-3.4.1b.1]

Prepared by:
William O. Moellmer, Ph.D.
Utah Division of Water Quality

STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH

AUTHORIZATION TO DISCHARGE UNDER THE

UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM
(UPDES)

In compliance with provisions of the Utah *Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the *"Act"*),

HIAWATHA COAL COMPANY

is hereby authorized to discharge from its facility located in Township 16 South, Range 8 East in Emery County and in Township 15 South, Range 8 East in Carbon County, Utah, to receiving waters named

CEDAR CREEK, A TRIBUTARY OF HUNTINGTON CREEK
AND
MILLER CREEK, A TRIBUTARY OF THE PRICE RIVER

in accordance with discharge points, effluent limitations, monitoring requirements and other conditions set forth herein.

This permit will become effective on January 1, 2010

This permit expires at midnight, December 31, 2014.

Signed the 14th day of December, 2009

Walter L. Baker, P.E.
Executive Secretary
Utah Water Quality Board

TABLE OF CONTENTS

Cover Sheet—Issuance and Expiration Dates — Page No.

I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS **2**
A. Definitions. 2
B. Description of Discharge Point(s) 3
C. Narrative Standard 4
D. Specific Limitations and Self-monitoring Requirements. 5
II. STORMWATER DISCHARGE REQUIREMENTS **6**
A. Coverage of This Section 7
B. Storm Water Pollution Prevention Plan Requirements. 7
III. MONITORING, RECORDING AND REPORTING REQUIREMENTS **18**
A. Representative Sampling 18
B. Monitoring Procedures 18
C. Penalties for Tampering 18
D. Reporting of Monitoring Results 18
E. Compliance Schedules 18
F. Additional Monitoring by the Permittee 18
G. Records Contents 18
H. Retention of Records 19
I. Twenty-four Hour Notice of Noncompliance Reporting. 19
J. Other Noncompliance Reporting 20
K. Inspection and Entry 20
IV. COMPLIANCE RESPONSIBILITIES **21**
A. Duty to Comply 21
B. Penalties for Violations of Permit Conditions 21
C. Need to Halt or Reduce Activity not a Defense 21
D. Duty to Mitigate 21
E. Proper Operation and Maintenance 21
F. Removed Substances 21
G. Bypass of Treatment Facilities. 21
H. Upset Conditions. 23
I. Toxic Pollutants 24
J. Changes in Discharge of Toxic Substances 24
K. Industrial Pretreatment 24
V. GENERAL REQUIREMENTS **26**
A. Planned Changes 26
B. Anticipated Noncompliance 26
C. Permit Actions 26
D. Duty to Reapply 26
E. Duty to Provide Information 26
F. Other Information 26
G. Signatory Requirements 26
H. Penalties for Falsification of Reports 27
I. Availability of Reports 27
J. Oil and Hazardous Substance Liability 28
K. Property Rights 28
L. Severability 28
M. Transfers 28
N. State Laws 28
O. Water Quality-Reopener Provision 28
P. Toxicity Limitation-Reopener Provision 29
Q. Storm Water-Reopener Provision 29

I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Definitions.

1. The "30-day and monthly average" is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month whichever is applicable. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.

2. "Daily Maximum" ("Daily Max.") is the maximum value allowable in any single sample or instantaneous measurement.

3. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.

4. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.

5. "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.

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

7. "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.

8. "Executive Secretary" means Executive Secretary of the Utah Water Quality Board.

9. "EPA" means the United States Environmental Protection Agency.

10. "Act" means the "*Utah Water Quality Act*".

11. "Best Management Practices" ("*BMP's*") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. *BMP's* 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.

12. "*CWA*" means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.

13. "Point Source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharges. This term does not include return flows from irrigated agriculture or agriculture storm water runoff.

14. "Significant spills" includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under *Section 311* of the *Clean Water Act* (see *40 CFR 110.10* and *40 CFR 117.21*) or *Section 102* of *CERCLA* (see *40 CFR 302.4*).

15. "Waste pile" means any non-containerized accumulation of solid, non-flowing waste that is used for treatment or storage.

B. Description of Discharge Point.

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a UPDES permit are in violation of the *Act* and may be subject to penalties under the *Act*. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the *Act*.

Outfall Number	Location of Discharge Points
001	Mohrland Portal Discharge: T16S, R8E SLBM, Sec. 8, at approximately longitude 111° 03' 0"and latitude 39° 27' 50". The discharge is from mine water seepage.
002	Culinary Water Overflow: T15S, R8E SLBM, Sec. 34, at approximately longitude 111° 01' 0"and latitude 39° 28' 50". The discharge is overflow from the Hiawatha drinking water system. Hiawatha drinking water is from the Mohrland Portal discharge.
003	Hiawatha Sediment Pond D003: T15S, R8E SLBM, Sec 27, at approximately longitude 111° 0' 50" and latitude 39° 29' 0". The discharge is surface runoff from the Upper Rail Storage Yard Borrow area
004	Slurry Pond #1 Sediment Pond: T15S, R8E SLBM, Sec 26, at approximately 111° 0' 10" and latitude 39° 29' 20". The discharge is surface runoff from the disturbed area of the Ridge Borrow area.

005	Slurry Pond #4 Sediment Pond: T15S, R8E SLBM, Sec 27, at approximately 111° 0' 30" and latitude 39° 28' 45". The discharge is surface runoff from slurry pond #4
006	Hiawatha Sediment Pond D006: T15S, R8E SLBM, Sec 34, at approximately 111° 0' 15" and latitude 39° 28' 35". The discharge is surface runoff from slurry pond #5 cell 5A.
007	Hiawatha Sediment Pond D007: T15S, R8E SLBM, Sec 34, at approximately 111° 0' 10" and latitude 39° 28' 20". The discharge is surface runoff from slurry pond #5 main cell.
008	Middle Fork Sediment Pond: T15S, R8E SLBM, Sec 29, at approximately 111° 02' 40" and latitude 39° 29' 0". The discharge is surface runoff from the Middle Fork Mine Yard.
009	South Fork Mine Yard: T15S, R8E SLBM, Sec 19, at approximately 111° 02' 35" and latitude 39° 28' 50". The Discharge is surface runoff from the South Fork Mine Yard.
010	King 4 Mine Discharge: T15S, R7E SLBM, Sec 32, at approximately 111° 03' 45" and latitude 39° 32' 15". The Discharge is from sump locations within the mine.
011	South Fork Truck Loading Facility: T15S, R8E SLBM, Sec 33, at approximately 111° 02' 28" and latitude 39° 28' 47". The Discharge is surface runoff from the South Fork Loading facility.
012	Mohrland Pipeline Drain: T15S, R8E SLBM, Sec 10, at approximately 111° 0' 45" and latitude 39° 26' 30". The discharge is from a valve on the Mohrland Pipeline.
013	King 6 Water Tank Overflow: T15S, R8E SLBM, Sec 32, at approximately 111° 03' 07" and latitude 39° 29' 0". The discharge is from an overflow pipe from the King 6 water tank in South Fork Canyon.

C. Narrative Standard.

It shall be unlawful, and a violation of this permit, for the permittee to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum, or other nuisances such as color, odor or taste, or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable

aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures.

D. Specific Limitations and Self-monitoring Requirements.

1. Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfalls 001 through 013. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Limitations Outfalls 001 Through 013				
Parameter	Monthly Average	Weekly Average	Daily Minimum	Daily Maximum
Total Suspended Solids, mg/L	25	35	NA	70
Total Dissolved Solids, mg/L	NA	NA	NA	981
Total Dissolved Solids, tons/day/year a/	NA	NA	NA	1.0 / 366
Iron, mg/L	NA	NA	NA	1.0
Oil & Grease, mg/L	NA	NA	NA	10
pH, standard units	NA	NA	6.5	9.0

NA – Not Applicable

Self-Monitoring and Reporting Requirements Outfalls 001 Through 013 b/				
Parameter	Frequency	Sample Type	Units	Reporting Frequency
Total Flow	Quarterly	Instantaneous	MGD	Quarterly
Total Dissolved Solids	Quarterly	Grab	mg/L	Quarterly
Total Dissolved Solids	Quarterly	Calculated	ton/day/year	Quarterly
Oil & Grease	Quarterly	Grab	mg/L	Quarterly
pH	Quarterly	Grab	SU	Quarterly
TSS	Quarterly	Grab	mg/L	Quarterly

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

a/ In addition to the total dissolved solids (TDS) effluent concentration limitation, TDS effluent loading is limited to one-ton/day. If the one-ton/day effluent loading limitation cannot be met, then the permittee is limited to 366-tons/year total TDS effluent loading from the facility. It is the responsibility of the permittee to maintain annual TDS loading information and submit to the Executive Secretary the annual TDS loading information.

b/ Samples taken in compliance with the monitoring requirements specified above shall

be taken at the following locations: at outfalls 001 through 013 prior to the confluence with the receiving waters.

2. For Outfalls 003 through 013, any overflow, increase in volume of a discharge from a bypass system caused by precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitation instead of the total suspended solids limitations contained in Part I.D. Testing methods and procedures outlined in 40CFR 434.64 must be utilized.

Parameter	Effluent Limitation Outfalls 003 Through 013			
	Maximum Monthly Average	Maximum Weekly Average	Daily Minimum	Daily Maximum
Settleable Solids, ml/L	NA	NA	NA	0.5

NA – Not Applicable

Self-Monitoring and Reporting Requirements Outfalls 003 Through 013 c/			
Parameter	Frequency	Sample Type	Units
Settleable Solids	Quarterly	Grab	ml/L

c/ Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations: at outfalls 003 through 013 prior to the confluence with the receiving waters.

II. STORMWATER DISCHARGE REQUIREMENTS

A. Coverage of This Section. The requirements listed under this section shall apply to storm water discharges from coal mining-related areas that are not subject to effluent limitations guidelines under *40 CFR Part 434*.

1. Site Coverage. Storm water discharges from the following portions of coal mines are covered under this portion of this permit: haul roads (nonpublic roads on which coal or coal refuse is conveyed), access roads (nonpublic roads providing light vehicular traffic within the facility property and to public roadways), railroad spurs, sidings, and internal haulage lines (rail lines used for hauling coal within the facility property and to offsite commercial railroad lines or loading areas), conveyor belts, chutes, and aerial tramway haulage areas (areas under and around coal or refuse conveyor areas, including transfer stations), equipment storage and maintenance yards, coal handling buildings and structures, and inactive coal mines and related areas (abandoned and other inactive mines, refuse disposal sites and other mining-related areas on private lands).

2. Non-Storm Water Discharges Authorized to Co-mingle and Discharge with Storm Water.

   a. The following non-storm water discharges may be authorized by this permit provided the non-storm water component of the discharge is in compliance with this section (*Part II*) and: discharges from fire fighting activities; fire hydrant flushings; potable water sources including waterline flushings; drinking fountain water; irrigation drainage; lawn watering; routine external building washdown that does not use detergents or other compounds; pavement washwaters where spills or leaks of toxic or hazardous materials (including oils and fuels) have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; uncontaminated compressor condensate; uncontaminated springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

   b. The following discharges are prohibited from discharging (unless authorized under *Part I*): point source discharges of pollutant seeps or underground drainage from inactive coal mines and refuse disposal areas that do not occur as storm water discharges in response to precipitation events are also excluded from coverage under this part. In addition, floordrains from maintenance buildings and other similar drains in mining and preparation plant areas are prohibited.

B. Storm Water Pollution Prevention Plan Requirements. Most of active coal mining-related areas are subject to sediment and erosion control regulations of the U.S. Office of Surface Mining (OSM) that enforces the *Surface Mining Control and Reclamation Act* (*SMCRA*). OSM has granted authority to the Utah Division of Oil Gas and Mining (DOGM) to implement *SMCRA* through State *SMCRA* regulations. All *SMCRA* requirements regarding control of erosion, siltation and other pollutants resulting from storm water runoff, including road dust resulting from erosion, shall be primary requirements of the pollution prevention plan and shall be included in the contents of the plan

directly, or by reference. Where determined to be appropriate for protection of water quality, additional sedimentation and erosion controls may be warranted.

1. Contents of Plan. The plan 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 storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility 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 shall address all aspects of the facility's storm water pollution prevention plan.

   b. Description of Potential Pollutant Sources. The plan shall provide a description of potential sources that may reasonably be expected to add significant amounts of pollutants to storm water discharges or that may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials that may potentially be significant pollutant sources. The plan shall include, at a minimum:

      (1) Drainage.

         (a) A site map, such as a drainage map required for *SMCRA* permit applications, that indicate drainage areas and storm water outfalls. These shall include but not be limited to the following:

            1 Drainage direction and discharge points from all applicable mining-related areas described in *Part II.A.1.* (Site Coverage) above, including culvert and sump discharges from roads and rail beds and also from equipment and maintenance areas subject to storm runoff of fuel, lubricants and other potentially harmful liquids.

            2 Location of each existing erosion and sedimentation control structure or other control measures for reducing pollutants in storm water runoff.

            3 Receiving streams or other surface water bodies.

            4 Locations exposed to precipitation that contain acidic spoil, refuse or unreclaimed disturbed areas.

            5 Locations where major spills or leaks of toxic or hazardous pollutants have occurred.

            6 Locations where liquid storage tanks containing potential pollutants, such as caustics, hydraulic fluids and lubricants, are exposed to precipitation.

7 Locations where fueling stations, vehicle and equipment maintenance areas are exposed to precipitation.

8 Locations of outfalls and the types of discharges contained in the drainage areas of the outfalls.

(b) For each area of the facility that generates storm water discharges associated with the mining-related activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants that are likely to be present in storm water discharges associated with the activity. Factors to consider include the toxicity of the pollutant; quantity of chemicals 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. An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such 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 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 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.

(3) Spills and Leaks. A list of significant spills and leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of issuance of this permit. Such list shall be updated as appropriate during the term of the permit.

(4) Sampling Data. A summary of any existing discharge sampling data describing pollutants in storm water discharges from the portions of the facility covered by this permit, including a summary of any 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: truck traffic on haul roads and resulting generation of sediment subject to runoff and dust generation; fuel or other liquid storage; pressure lines containing slurry, hydraulic fluid or other potential harmful liquids; and loading or temporary storage of acidic refuse or spoil. Specific potential pollutants shall be identified, where known.

c. Measures and Controls. The permit shall develop a description of storm water management controls appropriate for the facility and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the

facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls.

(1) Good Housekeeping. Good housekeeping requires the maintenance of areas that may contribute pollutants to storm water discharges in a clean, orderly manner. These would be practices that would minimize the generation of pollutants at the source or before it would be necessary to employ sediment ponds or other control measures at the discharge outlets. Where applicable, such measures or other equivalent measures would include the following: sweepers and covered storage to minimize dust generation and storm runoff; conservation of vegetation where possible to minimize erosion; watering of haul roads to minimize dust generation; collection, removal, and proper disposal of waste oils and other fluids resulting from vehicle and equipment maintenance; or other equivalent measures.

(2) Preventive Maintenance. A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices 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. Where applicable, such measures would include the following: removal and proper disposal of settled solids in catch basins to allow sufficient retention capacity; periodic replacement of siltation control measures subject to deterioration such as straw bales; inspections of storage tanks and pressure lines for fuels, lubricants, hydraulic fluid or slurry to prevent leaks due to deterioration or faulty connections; or other equivalent measures.

(3) Spill Prevention and Response Procedures. Areas where potential spills that can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention 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 necessary equipment to implement a clean up should be available to personnel.

(4) Inspections. In addition to or as part of the comprehensive site evaluation required under *Part II.B.1.d.* of this section, qualified facility personnel shall be identified to inspect designated areas of the facility at appropriate intervals specified in the plan. The following shall be included in the plan:

(a) Active Mining-Related Areas and Those Inactive Areas Under *SMCRA* Bond Authority. The plan shall require quarterly inspections by the facility personnel for areas of the facility covered by pollution prevention plan requirements. This inspection interval corresponds with the quarterly inspections for the entire facility required to be provided by *SMCRA* authority inspectors for all mining-related areas under *SMCRA* authority, including sediment and erosion control measures. Inspections by the facility representative may be done at the same time as the

mandatory inspections performed by *SMCRA* inspectors. Records of inspections of the *SMCRA* authority facility representative shall be maintained.

(b) Inactive Mining-Related Areas Not Under *SMCRA* Bond. The plan shall require annual inspections by the facility representative except in situations referred to in *Part II.B.1.c(4)(c)* below.

(c) Inspection Records. The plan shall require that inspection records of the facility representative and those of the SMCRA authority inspector shall be maintained. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections.

(5) Employee Training. Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(6) 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 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.

(7) Non-storm Water Discharges.

(a) Certification. The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges such as drainage from underground portions of inactive mines or floor drains from maintenance or coal handling buildings. The certification shall include the identification of potential significant sources of non-storm water discharges at the site, a description of the results of any test and/or evaluation, a description of the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with *Part V.G.* (Signatory Requirements) of this permit.

(b) Exceptions. Except for flows from fire fighting activities, authorized sources of non-storm water listed in *Part II.A.2.* (Non-Storm Water Discharges Authorized to Commingle and Discharge with Storm Water) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(c) Failure to Certify. Any facility that is unable to provide the certification required (testing or other evaluation for non-storm water discharges) must notify the *Executive*

Secretary by October 1, 2005. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water to the storm discharge lines; and why adequate tests for such storm discharge lines were not feasible. Non-storm water discharges to waters of the State that are not authorized by a *UPDES* permit are unlawful, and must be terminated.

(8) Sediment and Erosion Control. The plan shall identify areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion and reduce sediment concentrations in storm water discharges. As indicated in paragraph *(4)(a)* above, *SMCRA* requirements regarding sediment and erosion control measures are primary requirements of the pollution prevention plan for mining-related areas subject to *SMCRA* authority. The following sediment and erosion control measures or other equivalent measures, should be included in the plan where reasonable and appropriate for all areas subject to storm water runoff:

(a) Stabilization Measures. Interim and permanent stabilization measures to minimize erosion and lessen amount of structural sediment control measures needed, including: mature vegetation preservation; temporary seeding; permanent seeding and planting; temporary mulching, matting, and netting; sod stabilization; vegetative buffer strips; temporary chemical mulch, soil binders, and soil palliatives; nonacidic roadsurfacing material; and protective trees.

(b) Structural Measures. Structural measures to lessen erosion and reduce sediment discharges, including: silt fences; earth dikes; straw dikes; gradient terraces; drainage swales; sediment traps; pipe slope drains; porous rock check dams; sedimentation ponds; riprap channel protection; capping of contaminated sources; and physical/chemical treatment of storm water.

(9) Management of Flow. The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (other than those as sediment and erosion control measures listed above) used to manage storm water runoff in a manner that reduces pollutants in storm water runoff from the site. The plan shall provide that the measures, which the permittee determines to be reasonable and appropriate, shall be implemented and maintained. Appropriate measures may include: discharge diversions; drainage/storm water conveyances; runoff dispersion; sediment control and collection; vegetation/soil stabilization; capping of contaminated sources; treatment; or other equivalent measures.

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

(1) Areas contributing to a storm water discharge associated with coal mining-related areas shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. These areas include haul and access roads; railroad spurs, sidings, and internal haulage lines; conveyor belts, chutes and aerial tramways; equipment storage and maintenance yards; coal handling buildings and structures; and inactive mines and related areas. 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, as indicated in paragraphs *c(8)* and *c(9)* above and where identified in the plan, shall be observed to ensure that they are operating correctly. A visual evaluation of any equipment needed to implement the plan, such as spill response equipment, shall be made.

(2) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan, in accordance with *Part II.B.1.b.* of this section, and pollution prevention measures and controls identified in the plan, in accordance with *Part II.B.1.c* of this section, shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner. For inactive mines, such revisions may be extended to a maximum of 12 weeks after the evaluation.

(3) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph *(2)* above shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. 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 storm water pollution prevention plan and this permit. The report shall be signed in accordance with *Part V.G.* (Signatory Requirements) of this permit.

(4) Where compliance evaluation schedules overlap with inspections required under *Part II.B.1.c(4)*, the compliance evaluation may be conducted in place of one such inspection. Where annual site compliance evaluations are shown in the plan to be impractical for inactive mining sites due to the remote location and inaccessibility of the site, site inspections required under this part shall be conducted at appropriate intervals specified in the plan, but, in no case less than once in 3 years.

2. Numeric Effluent Limitations. There are no additional numeric effluent limitations beyond those described in *Part I.C.* of this permit.

3. Monitoring and Reporting Requirements.

   a. Analytical Monitoring Requirements. During the period beginning January 1, 2010, lasting through December 31, 2010, and the period beginning January 1, 2012, lasting through December 31, 2012, the permittee (when there is coal mining activities) must monitor their

storm water discharges associated with industrial activity at least quarterly (4 times per year) except as provided in paragraphs *3.a.(3)*, below (Sampling Waiver), *3.a.(4)*, below (Representative Discharge), and *3.a.(5)*, below (Alternative Certification). Coal mining facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table II-1 below. Facilities must report in accordance with *3.b.* below (Reporting). In addition to the parameters listed in Table II-1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

Table II.1
Monitoring Requirements for Coal Mining Facilities

Pollutants of Concern	Cut-Off Concentration
Total Recoverable Aluminum	0.75 mg/L
Total Recoverable Iron	1.0 mg/L
Total Suspended Solids	100 mg/L

(1) Monitoring Periods. Coal mining facilities shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph *a.* (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions. When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall

collect a substitute sample from a separate qualifying event in the next monitoring period and submit the data along with the data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver. When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period January 1, 2010, lasting through December 31, 2010, is less than the corresponding value for that pollutant listed in Table II-1 under the column Monitoring Cut-Off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning January 1, 2012, lasting through December 31, 2012. The facility must submit to the *Executive Secretary*, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

(c) Inactive and Unstaffed Site. When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the *Executive Secretary*, in lieu of monitoring data, a certification statement on the *Storm Water Discharge Monitoring Report* (*SWDMR*) stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. Where the facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the storm water discharge monitoring report (SWDMR).

(5) Alternative Certification. The permittee is not subject to the monitoring requirements of this section provided the permittee makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph *b.* below, under penalty of law, signed in accordance with *Part V.G.* (Signatory

Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to *DWQ* in accordance with *Part V.B.* of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph *b.* below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b. Reporting. Permittees shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections *(3)*, *(4)*, or *(5)* above] obtained during the reporting period beginning January 1, 2010, lasting through December 31, 2010, on *Storm Water Discharge Monitoring Report* (*SWDMR*) form(s) postmarked no later than the 31st day of the following March, 2010. Monitoring results [or a certification in accordance with Sections *(3)*, *(4)*, or *(5)* above] obtained during the period beginning January 1, 2012, lasting through December 31, 2012, shall be submitted on *SWDMR* form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed *SWDMR* form must be submitted to the *Executive Secretary* per storm event sampled. Signed copies of *SWDMR*s, or said certifications, shall be submitted to the *Executive Secretary* at the address listed in *Part III.D.1.* of the permit.

c. Visual Examination of Storm Water Quality. Coal mining-related facilities shall perform and document a visual examination of a representative storm water discharge at the following frequencies: quarterly for active areas under *SMCRA* bond located in areas with average annual precipitation over 20 inches; semi-annually for inactive areas under *SMCRA* bond, and active areas under *SMCRA* bond located in areas with average annual precipitation of 20 inches or less; visual examinations are not required at inactive areas not under *SMCRA* bond.

(1) Visual Monitoring Periods. Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water runoff or snow melt: Quarterly-January through March; April through June; July through September; and October through December. Semi-annually—January through June and July through December.

(2) Sample and Data Collection. Examinations shall be made of samples collected within the first 60 minutes (or as soon thereafter as practical, but not to exceed two hours) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from

the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual will carry out the collection and examination of discharges for the life of the permit.

(3) Visual Storm Water Discharge Examination Reports. Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) Representative Discharge. If two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) Adverse Conditions. If the permittee is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the permittee must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(6) Inactive and Unstaffed Site. When the permittee is unable to conduct visual storm water examinations at an inactive and unstaffed site, the permittee may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under *Part I* shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10*, unless other test procedures have been specified in this permit.

C. Penalties for Tampering. 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 per violation, or by imprisonment for not more than six months per violation, or by both.

D. Reporting of Monitoring Results. Monitoring results obtained during the previous month shall be summarized for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), post-marked no later than the 28th day of the month following the completed reporting period. The first report is due on February 28, 2010. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part V.G)*, and submitted to the Director, Division of Water Quality and to EPA at the following addresses:

original to: Department of Environmental Quality
Division of Water Quality
288 North 1460 West
PO Box 144870
Salt Lake City, Utah 84114-4870

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

F. Additional Monitoring by the Permittee. If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under *UAC R317-2-10* or as otherwise 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. Only those parameters required by the permit need to be reported.

G. 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) and time(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.

H. 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 Executive Secretary at any time. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location.

I. Twenty-four Hour Notice of Noncompliance Reporting.

1. The permittee shall (orally) report any noncompliance which may seriously endanger health or environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of circumstances. The report shall be made to the Division of Water Quality, (801) 538-6146, or 24 hour answering service (801) 536-4123.

2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4123 as soon as possible but no later than 24 hours from the time the permittee becomes aware of the circumstances:

   a. Any noncompliance which may endanger health or the environment;

   b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See *Part IV.G, Bypass of Treatment Facilities.)*;

   c. Any upset which exceeds any effluent limitation in the permit (See *Part IV.H, Upset Conditions.*); or,

   d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit.

3. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. 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;

d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance;

e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.

4. The Executive Secretary may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Division of Water Quality, (801) 538-6146.

5. Reports shall be submitted to the addresses in *Part III.D, Reporting of Monitoring Results*.

J. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for *Part III.D* are submitted. The reports shall contain the information listed in *Part III.I.3*.

K. Inspection and Entry. The permittee shall allow the Executive Secretary, or an authorized representative, 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 the 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.

IV. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Executive Secretary 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. The *Act* provides that any person who violates a permit condition implementing provisions of the *Act* is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions of the Act is subject to a fine not exceeding $25,000 per day of violation; Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding $50,000 per day. Except as provided at *Part IV.G, Bypass of Treatment Facilities* and *Part IV.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 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. Collected screening, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not directly enter either the final effluent or waters of the state by any other direct route.

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 2. and 3. of this section.

2. Prohibition of Bypass.

a. Bypass is prohibited, and the Executive Secretary may take enforcement action against a permittee for bypass, unless:

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

(2) There were no feasible alternatives to 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 backup 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 section G.3.

b. The executive Secretary may approve an anticipated bypass, after considering its adverse effects, if the Executive Secretary determines that it will meet the three conditions listed in sections G.2a. (1), (2) and (3).

3. Notice.

a. Anticipated bypass. Except as provided above in section G.2. and below in section G. 3.b, if the permittee knows in advance of the need for a bypass, it shall submit prior notice, at least ninety days before the date of bypass. The prior notice shall include the following unless otherwise waived by the Executive Secretary:

(1) Evaluation of alternative to bypass, including cost-benefit analysis containing an assessment of anticipated resource damages:

(2) A specific bypass plan describing the work to be performed including scheduled dates and times. The permittee must notify the Executive Secretary in advance of any changes to the bypass schedule;

(3) Description of specific measures to be taken to minimize environmental and public health impacts;

(4) A notification plan sufficient to alert all downstream users, the public and others reasonably expected to be impacted by the bypass;

(5) A water quality assessment plan to include sufficient monitoring of the receiving water before, during and following the bypass to enable evaluation of public health risks and environmental impacts; and

(6) Any additional information requested by the Executive Secretary.

b. Emergency Bypass. Where ninety days advance notice is not possible, the permittee must notify the Executive Secretary, and the Director of the Department of Natural Resources, as soon as it becomes aware of the need to bypass and provide to the Executive Secretary the information in section G.3.a.(1) through (6) to the extent practicable.

c. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass to the Executive Secretary as required under Part III.I., Twenty Four Hour Reporting. The permittee shall also immediately notify the Director of the Department of Natural Resources, the public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

H. Upset Conditions.

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph 2. of this section are met. Executive Secretary's administrative determination regarding a claim of upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.

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 III.I, Twenty-four Hour Notice of Noncompliance Reporting; and,

d. The permittee complied with any remedial measures required under Part IV.D, Duty to Mitigate.

3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

I. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of *The Water Quality Act of 1987* 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.

J. Changes in Discharge of Toxic Substances. Notification shall be provided to the Executive Secretary 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 ug/L);

   b. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/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 *UAC R317-8-3.5(7)* or (10); or,

   d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.

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 ug/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 *UAC R317-8-3.5(9)*; or,

   d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.

K. Industrial Pretreatment. Any wastewaters discharged to the sanitary sewer, either as a direct discharge or as a hauled waste, are subject to Federal, State and local pretreatment regulations. Pursuant to Section 307 of *The Water Quality Act of 1987*, the permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at *40 CFR 403*, the State Pretreatment Requirements at *UAC R317-8-8*, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the wastewaters.

In addition, in accordance with *40 CFR 403.12(p)(1)*, the permittee must notify the POTW, the EPA Regional Waste Management Director, and the State hazardous waste authorities, in writing, if they discharge any substance into a POTW which if otherwise disposed of would be considered a hazardous waste under *40 CFR 261*. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).

V. GENERAL REQUIREMENTS

A. Planned Changes. The permittee shall give notice to the Executive Secretary as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, the permittee shall give notice to the Executive Secretary of any planned changes at least 30 days prior to their implementation.

B. Anticipated Noncompliance. The permittee shall give advance notice to the Executive Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

C. 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.

D. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.

E. Duty to Provide Information. The permittee shall furnish to the Executive Secretary, within a reasonable time, any information which the Executive Secretary 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 Executive Secretary, upon request, copies of records required to be kept by this permit.

F. 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 Executive Secretary, it shall promptly submit such facts or information.

G. Signatory Requirements. All applications, reports or information submitted to the Executive Secretary shall be signed and certified.

1. All permit applications shall be signed by either a principal executive officer or ranking elected official

2. All reports required by the permit and other information requested by the Executive Secretary 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 Executive Secretary, and,

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (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 V.G.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 V.G.2 must be submitted to the Executive Secretary 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."

H. Penalties for Falsification of Reports. The *Act* 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 $10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both.

I. Availability of Reports. Except for data determined to be confidential under *UAC R317-8-3.2*, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Executive Secretary. 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 permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under 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 provisions 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 Executive Secretary at least 20 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 Executive Secretary 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.

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 *UCA 19-5-117*.

O. Water Quality-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:

1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.

2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.

3. A revision to the current Water Quality Management Plan is approved and adopted which calls for different effluent limitations than contained in this permit.

P. Toxicity Limitation-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity (WET) testing, a WET limitation, a compliance schedule, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is detected during the life of this permit.

Q. Storm Water-Reopener Provision. At anytime during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *UAC R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "waters-of-the-State".