0006

Route to Ken then file

Permit No. UT0022896
Major Industrial
ACT/015/019 #2

RECEIVED
NOV 16 1992
DIVISION OF
OIL GAS & MINING

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"*),

PacifiCorp-Wilberg Mine

is hereby authorized to discharge from its facility located approximately 8 miles north west of Orangville in Emery County, Utah. The outfalls are located at

001	39°19'4"	111°7'20"
002	39°18'56"	111°11'15"
003	39°19'7"	111°7'13"
004	39°18'43"	111°10'35"
005	39°17'43"	111°7'18"

to receiving waters named

Grimes Wash and Cottonwood Creek

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

This permit shall become effective on November 12, 1992.

This permit and the authorization to discharge shall expire at midnight, October 31, 1997.

Signed this 12th day of November, 1992.

Authorized Permitting Official
Executive Secretary
Utah Water Quality Board

TABLE OF CONTENTS

Cover Sheet--Issuance and Expiration Dates			Page No.
I.	EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS		3
	A.	Definitions	3
	B.	Description of Discharge Point(s)	4
	C.	Narrative Standard	5
	D.	Specific Limitations and Self-monitoring Requirements	5
II.	MONITORING, RECORDING AND REPORTING REQUIREMENTS		11
	A.	Representative Sampling	11
	B.	Monitoring Procedures	11
	C.	Penalties for Tampering	11
	D.	Reporting of Monitoring Results	11
	E.	Compliance Schedules	11
	F.	Additional Monitoring by the Permittee	11
	G.	Records Contents	11
	H.	Retention of Records	12
	I.	Twenty-four Hour Notice of Noncompliance Reporting	12
	J.	Other Noncompliance Reporting	13
	K.	Inspection and Entry	13
III.	COMPLIANCE RESPONSIBILITIES		14
	A.	Duty to Comply	14
	B.	Penalties for Violations of Permit Conditions	14
	C.	Need to Halt or Reduce Activity not a Defense	14
	D.	Duty to Mitigate	14
	E.	Proper Operation and Maintenance	14
	F.	Removed Substances	14
	G.	Bypass of Treatment Facilities	14
	H.	Upset Conditions	15
	I.	Toxic Pollutants	16
	J.	Changes in Discharge of Toxic Substances	16
	K.	Industrial Pretreatment	16
IV.	GENERAL REQUIREMENTS		17
	A.	Planned Changes	17
	B.	Anticipated Noncompliance	17
	C.	Permit Actions	17
	D.	Duty to Reapply	17
	E.	Duty to Provide Information	17
	F.	Other Information	17
	G.	Signatory Requirements	17
	H.	Penalties for Falsification of Reports	18
	I.	Availability of Reports	18
	J.	Oil and Hazardous Substance Liability	18
	K.	Property Rights	18
	L.	Severability	18
	M.	Transfers	18
	N.	State Laws	19
	O.	Water Quality-Reopener Provision	19
	P.	Toxicity Limitation -Reopener Provision	19

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. The "7-day (and weekly) average" is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self- monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.

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

4. "Composite samples" shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the composite sample period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:

   a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;

   b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;

   c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,

   d. Continuous collection of sample, with sample collection rate proportional to flow rate.

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

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

7. "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.

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

9. "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.

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

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

12. Acute Toxicity occurs when 50 percent or more mortality is observed for either test species at any effluent concentration.

13. Chronic toxicity occurs when the survival, growth, or reproduction for either test species exposed to a dilution of percent effluent (or lower) is significantly less (at the 95 percent confidence level) than the survival, growth or reproduction of the control specimens.

14. Acid soluble is obtained by acidification of the sample in the field, no digestion process in the laboratory, filtration, and analysis by atomic absorption spectrophotometry.

15. The term "10-year, 24-hour precipitation event" shall mean the maximum 24-hour precipitation event with a probable recurrence interval of once in 10 years as defined by the National Weather Service and Technical Paper No. 40, **Rainfall Frequency Atlas of the U.S.**, May 1961, and subsequent amendments or equivalent regional or rainfall probability information developed therefrom.

16. The term "coal preparation plant" means a facility where coal is crushed, screended, sized, cleaned, dried, or otherwise prepared and loaded for transit to a consuming facility.

17. The term "coal preparation plant associated areas" means the coal preparation plant yards, immediate access roads, coal refuse piles, and coal storage piles and facilities.

18. The term "settelable solids" is that matter measured by the volumetric method specified below:

    The following procedure is used to determine settleable solids:

    Fill an Imhoff cone to the one-liter mark with a thoroughly mixed sample. Allow to settle undisturbed for 45 minutes. Gently stir along the inside surface of the cone with a stirring rod. Allow to settle undisturbed for 15 minutes longer. Record the volume of settled material in the cone as milliliters per liter. Where a separation of settleable and floating material occurs, do not include the floating material in the reading.

B. Description of Discharge Point(s).

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 is a 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 Point(s)
001	Mine discharge to Grimes Wash.
002	Surface runoff pond discharge to Cottonwood Creek.
003	Surface runoff pond discharge to Grimes Wash.
004	Mine discharge to Cottonwood Creek.
005	Waste rock sediment pond discharge to Grimes Wash.

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 conditions which produce undesirable aquatic life or which produces objectionable tastes in edible aquatic organisms; or 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 001-005. Such discharges shall be limited and monitored by the permittee as specified below:

Outfall 001

Effluent Characteristics	Discharge Limitations a/ Average 30-Day	Average 7-Day	Daily Maximum	Monitoring Requirements Measurement Frequency	Sample Type
Flow, MGD	Report	NA	Report	Monthly	Measured
Oil & Grease, mg/L	NA	NA	10	Monthly	Grab
Total Suspended Solids, mg/L	25	35	70	Monthly	Grab
Total Iron	NA	NA	1.0	Monthly	Grab
Total Dissolved Solids, mg/L	NA	NA	1000	Monthly	Grab

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units in any sample and shall be monitored monthly by a grab sample.

There shall be no visible sheen or floating solids or visible foam in other than trace amounts.
There shall be no use of gypsum in the mine for rock dust.
There shall be no discharge of sanitary wastes.

NA - Not Applicable.

a/ See Definitions, *Part I.A* for definition of terms.

Outfalls 002, 003 and 005

Effluent Characteristics	Discharge Limitations a/ Average 30-Day	Average 7-Day	Daily Maximum	Monitoring Requirements Measurement Frequency	Sample Type
Flow, MGD	Report	NA	Report	Monthly	Measured b/
Oil & Grease, mg/L	NA	NA	10	Monthly	Grab
Total Suspended Solids, mg/L	25	35	70	Monthly	Grab
Total Iron	NA	NA	1.0	Monthly	Grab
Total Dissolved Solids,lbs/day	NA	NA	2000 c/	Monthly	Grab

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units in any sample and shall be monitored monthly by a grab sample.

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.

NA - Not Applicable.

a/ See Definitions, *Part I.A* for definition of terms.

b/ For intermittent discharges the duration of the discharge will be reported.

c/ The amount of total dissolved solids from decant operations of all surface ponds shall not exceed 2000 lbs/day. To the extent practical the winter decant at outfall 003 shall be limited to times when there is a discharge at 001.

Outfall 004

Effluent Characteristics	Discharge Limitations a/ Average 30-Day	Average 7-Day	Daily Maximum	Monitoring Requirements Measurement Frequency	Sample Type
Flow, MGD	Report	NA	Report	Monthly	Measured b/
Oil & Grease, mg/L	NA	NA	10	Monthly	Grab
Total Suspended Solids, mg/L	25	35	70	Monthly	Grab
Total Iron	NA	NA	1.0	Monthly	Grab
Total Dissolved Solids, mg/L	NA	NA	1000	Monthly	Grab

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units in any sample and shall be monitored monthly by a grab sample.

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

NA - Not Applicable.

a/ See Definitions, *Part I.A* for definition of terms.

2. Samples taken in compliance with the monitoring requirements specified above shall be taken from the effluent before mixing with any receiving water.

3. Effective immediately, and lasting through the life of this permit, there shall be no acute or chronic toxicity in the discharge from outfalls 001 and 004, as defined in *Part I.A* and determined by test procedures described in *Parts I.D. 7* of this permit.

4. 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) at all surface runoff ponds (Outfalls 002, 0030, & 005) may comply with the following limitation instead of the Total Suspended Solids limitations contained in Part I.D.1:

Effluent Characteristics	Daily Maximum
Settleable Solids	0.5 mL/L

In addition to the monitoring requirements specified under Part I.D.1, all effluent samples collected during storm water discharge events shall also be analyzed for settleable solids. Such analyses shall be conducted on grab samples.

5. Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) at all surface runoff pond outfalls may comply with the following limitations instead of the otherwise applicable limitations:

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units. However, as stated under Part I.D.4, all effluent samples collected at all surface runoff pond outfalls during storm water discharge events shall be analyzed for settleable solids and the parameters identified under Part I.D.1.

6. The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described in Parts I.D.4. and D.5. The alternate limitation in Parts I.D.4. and D.5. shall not apply to treatment systems that treat underground mine water only.

7. Whole Effluent - Acute Toxicity.

Effective immediately, the permittee shall quarterly conduct acute static replacement toxicity tests on a grab sample of the final effluent. The sample shall be collected at outfall 001. A sample shall also be collected at least every 6 months at outfall 004 for testing with alternate species.

The monitoring frequency for acute tests shall be quarterly unless a sample is found to be acutely toxic during a routine test. If that occurs, the monitoring frequency shall become weekly (See *Part I.D.8, Accelerated Testing*). Samples shall be collected on a two day progression; i.e., if the first sample is on a Monday, during the next sampling period, the sampling shall begin on a Wednesday, etc.

The replacement static acute toxicity tests shall be conducted in general accordance with the procedures set out in the latest revision of *Methods of Measuring the Acute Toxicity of Effluent to*

Freshwater and Marine Organisms, EPA/600-4-85-013 (Rev. March 1985) and the *Region VIII EPA NPDES Acute Test Conditions - Static Renewal Whole Effluent Toxicity Test.* In the case of conflicts, the Region VIII procedures will prevail. The permittee shall alternate the 48-hour static replacement toxicity test using Ceriodaphnia sp. and the acute 96-hour static replacement toxicity test using fathead minnows.

Acute toxicity occurs when 50 percent or more mortality is observed for either species at any effluent concentration. Mortality in the control must simultaneously be 10 percent or less for the results to be considered valid. If more than 10 percent control mortality occurs, the test shall be repeated until satisfactory control mortality is achieved. A variance to this requirement may be granted by the Executive Secretary if a mortality of less than 10 percent was observed in higher effluent dilutions.

Monthly test results shall be reported along with the Discharge Monitoring Report (DMR) submitted for the end of the reporting calendar quarter e.g., biomonitoring results for the calendar quarter ending March 31 shall be reported no later than with the DMR due April 28, with the remaining biomonitoring reports submitted no later than with the DMRs due each July 28, October 28, and January 28. The format for the report shall be consistent with the latest revision of the *Region VIII Guidance for Acute Whole Effluent Reporting*, and shall include all chemical and physical data as specified.

8. Accelerated Testing.

When acute toxicity is indicated during routine biomonitoring as specified in this permit, the permittee shall notify the Executive Secretary in writing within 5 days after becoming aware of the test result. The permittee shall perform an accelerated schedule of biomonitoring to establish whether a pattern of toxicity exists. Accelerated testing will begin within seven days after the permittee becomes aware of the test result. Accelerated testing shall be conducted as specified under *Part I, D.9., Pattern of Toxicity*. If the accelerated testing demonstrates no pattern of toxicity, routine monitoring shall be resumed.

9. Pattern of Toxicity.

A pattern of toxicity is defined by the results of a series of up to five biomonitoring tests pursuant to the accelerated testing requirements using 100 percent effluent on the single species found to be more sensitive, once every week for up to five consecutive weeks.

If two (2) consecutive tests (not including the scheduled quarterly or monthly test which triggered the search for a pattern of toxicity) do not result in acute toxicity, no further accelerated testing will be required and no pattern of toxicity will be found to exist. The permittee will provide written verification to the Executive Secretary within 5 days, and resume routine monitoring.

A pattern of toxicity is established if one of the following occurs:

1. If two (2) consecutive test results (not including the scheduled quarterly or monthly test which triggered the search for a pattern of toxicity) indicate acute toxicity, this constitutes an established pattern of toxicity.

2. If consecutive tests continue to yield differing results each time, the permittee will be required to conduct up to a maximum of five (5) acute tests (not including the scheduled

quarterly or monthly test which triggered the search for a pattern of toxicity). If three out of five test results indicate acute toxicity, this will constitute an established pattern of toxicity.

10. Preliminary Toxicity Investigation.

1. When a pattern of toxicity is detected the permittee will notify the Executive Secretary in writing within 5 days and begin an evaluation of the possible causes of the toxicity. The permittee will have 15 working days from demonstration of the pattern of toxicity to complete a Preliminary Toxicity Investigation (PTI) and submit a written report of the results to the Executive Secretary. The PTI may include, but is not limited to, additional chemical and biological monitoring, examination of pretreatment program records, examination of discharge monitoring reports, a thorough review of the testing protocol, evaluation of treatment processes and chemical use, inspection of material storage and transfer areas to determine if a spill may have occurred, and similar procedures.

2. If the PTI identifies a probable toxicant and/or a probable source of toxicity, the permittee shall submit, as part of its final results, written notification of that effect to the Executive Secretary. Within thirty days of completing the PTI the permittee shall submit for approval a control program to control effluent toxicity and shall proceed to implement such plan within seven days following approval. The control program, as submitted to or revised by the Executive Secretary, may be incorporated into the permit.

3. If no probable explanation for toxicity is identified in the PTI, the permittee shall notify the Executive Secretary as part of its final report, along with a schedule for conducting a Phase I Toxicity Reduction Evaluation (TRE) (See *Part I.D.11, Toxicity Reduction Evaluation*).

4. If toxicity spontaneously disappears during the PTI, the permittee shall submit written notification to that effect to the Executive Secretary as part of the reporting requirements of paragraph 1 of this section.

11. Toxicity Reduction Evaluation (TRE).

If toxicity is detected, and it is determined by the Executive Secretary that a TRE is necessary, the permittee shall be so notified and shall initiate a TRE immediately thereafter. The purpose of the TRE will be establish the cause of the toxicity, locate the source(s) of the toxicity, and control or provide treatment for the toxicity.

A TRE may include but is not limited to one, all, or a combination of the following:

1. Phase I - Toxicity Characterization

2. Phase II - Toxicity Identification Procedures

3. Phase III - Toxicity Control Procedures

4. Any other appropriate procedures for toxicity source elimination and control

If the TRE establishes that the toxicity cannot be immediately eliminated the permittee shall submit a proposed compliance plan to the Executive Secretary. The plan shall include the proposed

approach to control toxicity and a proposed compliance schedule for achieving control. If the approach and schedule are acceptable to the Executive Secretary, this permit may be reopened and modified.

If the TRE shows that the toxicity is caused by a toxicant(s) that may be controlled with specific numerical limitations, the permittee may:

1. Submit an alternative control program for compliance with the numerical requirements.

2. If necessary, provide a modified biomonitoring protocol which compensates for the pollutant(s) being controlled numerically.

If acceptable to the Executive Secretary, this permit may be reopened and modified to incorporate any additional numerical limitations, a modified compliance schedule if judged necessary by the Executive Secretary, and/or a modified biomonitoring protocol.

Failure to conduct an adequate TRE, or failure to submit a plan or program as described above, or the submittal of a plan or program judged inadequate by the Executive Secretary, shall be considered a violation of this permit.

II. 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. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to the use-disposal practice.

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 the month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on December 28, 1992. 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 IV.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

copy to: United States Environmental Protection Agency Region VIII
Denver Place
999 18th Street, Suite 500
Denver, Colorado 80202-2466
Attention: Water Management Division
Compliance Branch (8WM-C)

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 III.G, Bypass of Treatment Facilities.)*;

   c. Any upset which exceeds any effluent limitation in the permit (See *Part III.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; and,

   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 II.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 II.D* are submitted. The reports shall contain the information listed in *Part II.H.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.

III. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the 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 III.G, Bypass of Treatment Facilities* and *Part III.H, Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

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

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

E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and 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 the provisions of paragraphs 2 and 3 of this section. Return of removed substances, as described in *Part III.F*, to the discharge stream shall not be considered a bypass under the provisions of this paragraph.

2. Notice:

   a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under *Part II.I, Twenty- four Hour Reporting.*

3. Prohibition of bypass.

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

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

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

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

b. The 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 above in paragraph 3.a of this section.

H. Upset Conditions.

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with 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 II.I, Twenty-four Hour Notice of Noncompliance Reporting*; and,

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

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

I. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of *The 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 R317-8-3.4(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 R317-8-3.4(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).

IV. 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 *IV.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 *IV.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 a new compliance date, additional or modified numerical limitations, a new or different compliance schedule, a change in the biomonitoring protocol, or any other conditions related to the control of toxicants if one or more of the following events occur:

1. Toxicity was detected late in the life of the permit near or past the deadline for compliance.

2. The TRE results indicate that compliance with the toxic limits will require an implementation schedule past the date for compliance and the Executive Secretary agrees with the conclusion.

3. The TRE results indicate that the toxicant(s) represent pollutant(s) that may be controlled with specific numerical limits, and the Executive Secretary agrees that numerical controls are the most appropriate course of action.

4. Following the implementation of numerical control(s) of toxicant(s), the Executive Secretary agrees that a modified biomonitoring protocol is necessary to compensate for those toxicants that are controlled numerically.

5. The TRE reveals other unique conditions or characteristics which, in the opinion of the Executive Secretary, justify the incorporation of unanticipated special conditions in the permit.