



State of Utah

Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

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

JON M. HUNTSMAN JR.
Governor

GARY HERBERT
Lieutenant Governor

April 24, 2006

CERTIFIED MAIL
(Return Receipt requested)

Mr. Mike Davis, Mine Engineer
Canyon Fuel Company, LLC - SUFCO Mine
397 South 800 West
Salina, Utah 84654

Incoming
4/24/06

Dear Mr. Davis:

Subject: UPDES Renewal Permit No. UT0022918,
Canyon Fuel Company, LLC – SUFCO Mine.

Enclosed is a signed copy of the Utah Pollutant Discharge Elimination System (UPDES) Renewal Permit No. UT0022918 for your facility. This permit will become effective on May 1, 2006, subject to the right to challenge this decision in accordance with the provisions of *Utah Administrative Code*, Section R317-9. Copies of EPA form 3320-1, Discharge Monitoring Reports (DMR) forms, for reporting and self-monitoring requirements as specified in the permit, are available upon request.

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 the UPDES Coal Mining Major Individual Permit category is \$5,400.00. Therefore, please remit \$5,400.00 within 30 days from receipt of this letter to:

Department of Environmental Quality
Division of Water Quality
Attn: Dan Rutishauser
P.O. Box 144870
Salt Lake City, UT 84114-4870

MAY 02 2006

Please be sure to include the invoice number with you remittance.

Also, as the State agency charged with the administration of issuing UPDES permits, we are continuously looking for ways to improve our quality of service to you. In an effort to improve the State UPDES permitting process, we are asking for your input. Since our customer permittee base is limited, your input is important to us. Please take a few moments to complete the enclosed questionnaire and return it in the postage paid, self-addressed return envelope. The results will be used to improve our quality and responsiveness to our permittees and give us feed back on customer satisfaction. We will address any issues you identify on an ongoing basis.

If you have any questions, please contact Jeff Studenka of this office at (801) 538-6779 or by e-mail at jstudenka@utah.gov.

Sincerely,



Mike Herkimer, Manager
UPDES Permits Section

MDH: JAS

Enclosures

cc: Qian Zhang, P.E., EPA Region VIII (w/encl)
Bruce Costa, Central Utah Health Dept. (w/encl)
Roger Foisy, DEQ District Engineer, (w/encl)
Pam Grubaugh-Littig, Division of Oil Gas & Mines, (w/encl)
Jim Karpowitz, Utah Division of Wildlife Resources
Nathan Darnall, United States Fish and Wildlife Services

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"),

CANYON FUEL CO., LLC - SUFCO MINE

is hereby authorized to discharge from its facility located approximately six and one half (6.5) miles north of Salina Canyon (east on I-70 to Exit #73) up Convulsion Canyon, Sevier County, Utah, with the outfall(s) located as indicated in this permit, to receiving waters named

Quitcupah Creek and East Spring Canyon, a tributary of Quitcupah Creek (tributaries of the Colorado River),

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

This permit shall become effective on May 1, 2006.

This permit and the authorization to discharge shall expire at midnight, April 30, 2011.

Signed this 24th day of April, 2006

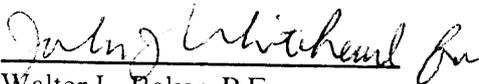

Walter L. Baker, P.E.
Executive Secretary
Utah Water Quality Board

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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. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
5. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
6. "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.
7. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
8. "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.
9. "Executive Secretary" means Executive Secretary of the Utah Water Quality Board.
10. "EPA" means the United States Environmental Protection Agency.
11. "Acute toxicity" occurs when 50 percent or more mortality is observed for either test species at any effluent concentration.
12. "Act" means the "*Utah Water Quality Act*".

13. "Best Management Practices" ("*BMPs*") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. *BMPs* also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
14. "Coal pile runoff" means the rainfall runoff from or through any coal storage pile.
15. "CWA" means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.
16. "Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a *UPDES* permit (other than the *UPDES* permit for discharges from the municipal separate storm sewer) and discharges from fire fighting activities, fire hydrant flushings, potable water sources including waterline flushings, uncontaminated ground water (including dewatering ground water infiltration), foundation or footing drains where flows are not contaminated with process materials such as solvents, springs, riparian habitats, wetlands, irrigation water, exterior building washdown where there are no chemical or abrasive additives, pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred and where detergents are not used, and air conditioning condensate.
17. "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.
18. "Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.
19. "Section 313 water priority chemical" means a chemical or chemical categories which:
 - a. are listed at *40 CFR 372.65* pursuant to *Section 313* of *Title III* of the *Emergency Planning and Community Right-to-Know Act (EPCRA)* (also known as *Title III* of the *Superfund Amendments and Reauthorization Act (SARA)* of 1986);
 - b. are present at or above threshold levels at a facility subject to *EPCRA, Section 313* reporting requirements, and
 - c. meet at least one of the following criteria:
 - (1) are listed in *Appendix D* of *40 CFR 122* on either *Table II* (organic priority pollutants), *Table III* (certain metals, cyanides, and phenols) or *Table IV* (certain toxic pollutants and hazardous substances);
 - (2) are listed as a hazardous substance pursuant to *Section 311(b)(2)(A)* of the *CWA* at *40 CFR 116.4*; or
 - (3) are pollutants for which EPA has published acute or chronic toxicity criteria.
20. "Significant materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food

processing or production; hazardous substances designated under *Section 101(14)* of *CERCLA*; any chemical the facility is required to report pursuant to *EPCRA Section 313*; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

21. "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*).
22. "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.
23. "Waste pile" means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.
24. "10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable reoccurrence interval of once in 10 years. This information is available in *Weather Bureau Technical Paper No. 40*, May 1961 and *NOAA Atlas 2*, 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

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*.

<u>Outfall Number</u>	<u>Location of Discharge Point(s)</u>
001	Discharge of mine water from an eight-inch pipe, located at Latitude 38°54'54" and Longitude 111°24'54".
002	A twelve-inch pipe serving as a discharge point for the sedimentation pond, located at a latitude 38°54'52" and longitude of 111°24'58".
003	A twenty-four inch discharge pipe at a mine breakout, located at a latitude 38°57'26" and longitude 111°23'06".

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, 002 and 003. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristics	Discharge Limitations a/			Monitoring Requirements	
	Average 30-Day Report	7-Day	Daily Maximum	Measurement Frequency	Sample Type
Flow, MGD <u>b/</u>	NA	NA	Report	2 X Month	Measured
Oil & Grease, mg/L <u>c/</u>	NA	NA	10	2 X Month	Visual/Grab
Total Suspended Solids, mg/L	25	35	70	2 X Month	Grab
Total Dissolved Solids, mg/L	NA	NA	1200 <u>d/</u>	2 X Month	Grab
Total Dissolved Solids, lbs/day	NA	NA	2000 <u>d/</u>	2 X Month	Grab
Total Iron, mg/L <u>e/</u>	NA	NA	1.0	2 X Month	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 twice per month 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.

There shall be no use of gypsum for rock dusting.

The permittee is required to minimize the discharge of salt by using the largest practicable amount of saline water for process and dust control. In addition the permittee shall use BMPs (definition in part I.A) to assure there is no discharge of water from the salt storage area(s).

N.A. - Not Applicable.

- a/ See Definitions, *Part I.A* for definition of terms
- b/ Flow measurement of effluent volume shall be made in such a manner that the permittee affirmatively demonstrates that representative values are being obtained.
- c/ The effluent shall be visually observed at least once every two weeks for an oil sheen and the presence of grease. A sample for oil and grease shall be taken if a sheen is present or there is some other reason to believe emulsified oil or some other oil is present in the discharge. If a sample is taken, it shall not exceed 10 mg/L in concentration.
- d/ Outfalls 001 & 003 shall be limited to a TDS concentration of 1200 mg/L, while outfall 002 shall be limited to a TDS mass loading not to exceed 2000 lbs (one ton) per day.
- e/ The Executive Secretary will consider modification of the permit to adjust this limit if SUFCO can provide convincing data to establish a specific correlation between total and dissolved iron.

2. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): at each specified discharge point, in the effluent flow before mixing with the receiving water.
3. 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 pond outfalls 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 either grab or composite samples.

4. 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.3, 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.

5. 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.3. and D.4. The alternate limitation in Parts I.D.3. and D.4. shall not apply to treatment systems that treat underground mine water only.

6. Whole Effluent - Acute Toxicity.

Beginning on the effective date of this permit, the permittee shall quarterly, conduct acute static replacement toxicity tests on a grab sample of the final effluent. When discharging, the sample(s) shall be collected at outfalls 001 and/or 003.

The monitoring frequency for acute tests at 001 and 003 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.6, 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 acute static replacement toxicity tests shall be conducted in general accordance with the procedures set out in the latest revision of *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition, October 2002, EPA/821-R-02-012* as per *40 CFR 136.3(a) TABLE IA-LIST OF APPROVED BIOLOGICAL METHODS*, and the *Region VIII EPA NPDES Acute Test Conditions - Static Renewal Whole Effluent Toxicity Test, August*

1997. In the case of conflicts, the Region VIII procedures will prevail. The permittee shall conduct the acute 48-hour static replacement toxicity test using Ceriodaphnia dubia and the acute 96-hour static replacement toxicity test using Pimephales promelas (fathead minnow). This will be done alternating quarterly between Ceriodaphnia dubia and Pimephales promelas (fathead minnow).

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.

Quarterly test results shall be reported along with the Discharge Monitoring Report Form (DMR) submitted for the end of the reporting calendar month. For example, biomonitoring results for the calendar quarter ending March 31 shall be reported with the standard DMR due April 28, with the remaining biomonitoring reports submitted with standard DMRs due each July 28, October 28, and January 28. Biomonitoring results shall be reported on a biomonitoring DMR form. All test results shall be reported along with the DMR submitted for that reporting period, shall be consistent with the latest revision of the *Region VIII NPDES Whole Effluent Toxics Control Program, August 1997, Appendix C: Acute Reporting Guidance*, and shall include all chemical and physical data as specified.

If the results of 12 consecutive tests indicate no acute toxicity, the permittee may request a reduction in testing frequency and/or reduction to one species. The Executive Secretary may approve, partially approve, or deny the request based on results and other available information. If approval is given, the modification will take place without a public notice.

7. 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.8, Pattern of Toxicity*. If the accelerated testing demonstrates no pattern of toxicity, routine monitoring shall be resumed.

8. 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:

- a. 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.
- b. 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.

9. Preliminary Toxicity Investigation.

- a. 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.
- b. 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.
- c. 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.10, Toxicity Reduction Evaluation*).
- d. 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 9.a. of this section.

10. 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:

- a. Phase I - Toxicity Characterization
- b. Phase II - Toxicity Identification Procedures
- c. Phase III - Toxicity Control Procedures

- d. 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:

- (a) Submit an alternative control program for compliance with the numerical requirements.
- (b) 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.

11. Prohibition of Non-Storm Water Discharges. Except for discharges described in part I.B and the discharges identified later in this paragraph, discharges from this facility are limited to storm water only. The following non-storm water discharges may be authorized by this permit to be discharged with storm water discharges provided the non-storm water component of the discharge is in compliance with *Part I.E.5.c.(7)*. (Measures and Controls for Non-storm Water Discharges): discharges from fire fighting activities; fire hydrant flushings; potable water sources including waterline flushings; irrigation drainage; lawn watering; routine external building washdown which does not use detergents or other compounds; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

- E. Storm Water Pollution Prevention Plan. It has been determined that the permittee has a regulated storm water discharge as per UAC R317.8. Therefore, the following permit conditions governing storm water discharges apply. The permittee shall develop and maintain a storm water pollution prevention plan.

1. Areas of the facility covered by this part.
- a. All areas considered to be "active mining" areas, part of the "coal preparation plant" area, or part of the "coal preparation plant associated areas as defined in 40 CFR 434.11.
- b. Haul roads - Nonpublic roads on which coal or coal refuse is conveyed.
- c. Access roads - Nonpublic roads providing light vehicular traffic within the facility property and to public roadways.

- d. 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.
 - e. Conveyor Belts, Chutes, and Aerial Tramway Haulage Areas - Areas under and around coal or refuse conveyor areas, including transfer stations.
 - f. Equipment Storage and Maintenance Yards.
 - g. Inactive Coal Mines and Related Areas - Abandoned and other inactive mines, refuse disposal sites and other mining-related areas.
 - h. All areas regulated by the federal Surface Mining Control and Reclamation Act (SMCRA).
2. Deadlines for Plan Preparation and Compliance. The existing sediment runoff control plan shall continue to be implemented in the interim. The storm water pollution prevention plan required under *Part I.E.* shall be prepared and implemented by 270 days after issuance of this permit, unless the *Executive Secretary* gives written approval extending the time for parts of the plan.
3. Signature and Plan Review
- a. The plan shall be signed in accordance with *Part IV.G.* (Signatory Requirements), and be retained on site at the facility which generates the storm water discharge.
 - b. The permittee shall make plans available upon request to the *Executive Secretary*, or authorized representative.
 - c. Required modifications. The *Executive Secretary* may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit that are not being met by the plan, and identify which provisions of the plan requires modifications in order to meet the minimum requirements of this part. Within 30 days of such notification from the *Executive Secretary* the permittee shall make the required changes to the plan and shall submit to *Executive Secretary* a written certification that the requested changes have been made.
4. SMCRA Required in the Storm Water Pollution Prevention Plan. The U.S. Office of Surface Mining (OSM) enforces storm water erosion problems through SMCRA. In the State of Utah, the Division of Oil Gas and Mining is the authorized agency to enforce SMCRA. All SMCRA requirements regarding control of erosion, siltation and other pollutants resulting from storm water runoff, including road dust resulting from erosion, shall be minimum requirements of the pollution prevention plan and shall be included in the contents of the plan directly, or by reference.
5. 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 or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team 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 which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. The 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:

- i) Drainage direction and discharge points from all applicable mining-related areas described in *Part I.E.1.* (Areas of the facility covered by this part), 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.
- ii) Location of each existing erosion and sedimentation control structure or other control measures for reducing pollutants in storm water runoff.
- iii) Receiving streams or other surface water bodies.
- iv) Locations exposed to precipitation that contain acidic spoil, refuse or unreclaimed disturbed areas.
- v) Locations where major spills or leaks of toxic or hazardous pollutants have occurred.
- vi) Locations where liquid storage tanks containing potential pollutants, such as caustics, hydraulic fluids and lubricants, are exposed to precipitation.
- vii) Locations where fueling stations, vehicle and equipment maintenance areas are exposed to precipitation.

(b) For each area of the facility that generates storm water discharges associated with 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 which are likely to be present in storm water discharges associated with the activity. Factors to consider include the toxicity of chemical; 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 the issuance of this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the issuance of this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

- (3) Spills and Leaks. A list of significant spills and significant 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 effective date of this permit. Such list shall be updated as appropriate during the term of the permit.
 - (4) Sampling Data. A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.
 - (5) Risk Identification and Summary of Potential Pollutant Sources. A narrative description of the potential pollutant sources from the following activities: 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 permittee 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 would include the following:
 - (a) Sweepers and covered storage to minimize dust generation and storm runoff
 - (b) Conservation of vegetation where possible to minimize erosion
 - (c) Watering of haul roads to minimize dust generation
 - (d) Collection, removal, and proper disposal of waste oils and other fluids resulting from vehicle and equipment maintenance.
 - (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:

- (a) Removal and proper disposal of settled solids in catch basins to allow sufficient retention capacity.
 - (b) Periodic replacement of siltation control measures subject to deterioration such as straw bales.
 - (c) Inspections of storage tanks and pressure lines for fuels, lubricants, hydraulic fluid or slurry to prevent leaks due to deterioration or faulty connections.
- (3) Spill Prevention and Response Procedures. Areas where potential spills which 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 I.E.5.d.* of this section, qualified facility or plant personnel shall be identified to inspect designated equipment and 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. At least one inspection shall be performed during a storm period of at least 0.1 inch rainfall where the effectiveness of the sediment and erosion control measures can be observed. During that inspection, a narrative evaluation of the control measures under storm conditions shall be made as well as visual impacts on the receiving stream. 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 I.E.5.d.(4)*.
 - (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. A 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. All records shall be kept for a period of not less than 3 years.
- (7) Non-storm Water Discharges.
 - (a) 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 IV.G.* of this permit.
 - (b) Except for flows from fire fighting activities, sources of non-storm water listed in *Part I.D.7.* (Prohibition of Non-storm Water Discharges) 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. If the permittee is unable to provide the certification required (testing for non-storm water discharges), the permittee must notify the *Executive Secretary* by March 1, 1995. 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 discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the State which 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 *Part I.E.4.* above, SMCRA requirements regarding sediment and erosion control measures are minimum requirements of the pollution prevention plan for mining-related areas subject to SMCRA authority. The following sediment and erosion control 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 Runoff. 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; and treatment.
- (10) Salt Control Measures.

The company shall implement and maintain best management practices for the control of salt storage for areas discharging to waters of the State. This shall include enclosure or coverage to prevent exposure to precipitation, except exposure resulting from adding or removing materials from the pile. The permittee shall demonstrate compliance with the enclosure provision upon the effective date of this permit.

- d. Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate 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 identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

- (2) Based on the results of the inspection, the description of potential pollutant sources identified in the plan in accordance with *Part I.E.5.b.* of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with *Part I.E.5.c.* of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such inspection and shall provide for implementation of any changes to the plan in a timely manner. For inactive mines, such revisions may be extended to a maximum of 12 weeks after the inspection.
 - (3) A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, and major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with *Part I.E.5.d(2).* (above) shall be made and retained as part of the storm water pollution prevention plan for at least 1 year after coverage under this permit terminates. The report shall 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 IV.G.* (Signatory Requirements) of this permit.
 - (4) Where compliance evaluation schedules overlap with inspections required under *Part I.E.5.c(4)*, the compliance evaluation may be conducted in place of one such inspection. Where annual site inspections 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.
6. Consistency with other Plans. Plans may reflect requirements for *Spill Prevention Control and Countermeasure ("SPCC")* plans developed for the facility under *Section 311* of the CWA or *Best Management Practices ("BMP")* otherwise required by this permit for the facility as long as such requirement is incorporated into the plan.

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 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. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports including whole effluent toxicity (WET) test 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 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 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.1.3*.

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:

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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,

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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) limitations, a compliance date, a compliance schedule, a change in the whole effluent toxicity (biomonitoring) protocol, additional or modified numerical limitations, or any other conditions related to the control of toxicants if one or more of the following events occur;
1. Toxicity is detected, as per Part I, D.4 and/or 5 of this permit, during the duration of this permit.
 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.