Official Draft Public Notice Version **February 26, 2014**
The findings, determinations, and assertions contained in this document are not final and subject to change following the public comment period.

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 COMPANY, 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) in Convulsion Canyon, Sevier County, Utah, with the outfall(s) located as indicated in this permit, to receiving waters named

North Fork of Quitchupah Creek and South Fork of the North Fork of Quitchupah Creek (tributaries of the Colorado River),

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

This permit *became* effective on October 1, 2011

*The modified portions of this permit (Part I.D.3) shall become effective on*_____.

This permit and the authorization to discharge, *inclusive of all modified portions* shall expire at midnight, September 30, 2016

Signed this day of March, 2014.

Walter L. Baker, P.E.
Director

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I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Definitions.

1. "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, beginning on Sunday and ending 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.

2. "10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable recurrence interval of once in 10 years. This information is available in *Weather Bureau Technical Paper No. 40*, May 1961 and *National Oceanographic and Atmospheric Administration 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.

3. "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.

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

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

6. "Best Management Practices" (BMP's) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMP's also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

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

PRELIMINARY

8. "Chronic toxicity" occurs when the inhibitory concentration to 25% of the population (IC_{25}) is less than or equal to 98 % effluent.

9. "Coal pile runoff" means the rainfall runoff from or through any coal storage pile.

10. "Composite samples" shall be flow proportioned. The composite sample shall contain, as a minimum, 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.

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

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

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

14. *"Director" means Director of the Utah Division of Water Quality.*

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

16. "IC_{25}" is the concentration of toxicant (given in % effluent) that would cause a 25% reduction in mean young per female or a 25% reduction in overall growth for the test population.

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17. "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 flushing, potable water sources including waterline flushing, 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 wash down where there are no chemical or abrasive additives, pavement wash water where spills or leaks of toxic or hazardous materials have not occurred and where detergents are not used, and air conditioning condensate.

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

19. "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.

20. "Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.

21. "*Section 313* water priority chemical" means a chemical or chemical categories which:

    a. Are listed at *40 Code of Federal Regulations (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* 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 *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.

22. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

23. "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 *Comprehensive Environmental Response, Compensation, and Liability Act (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.

24. "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*).

25. "Storm water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.

26. "Time-weighted composite" means a composite sample consisting of a mixture of equal volume aliquots collected at a constant time interval.

27. "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.

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

29. Acronym List

BMP	Best Management Practices
CERCLA	Comprehensive Environmental Response, Compensation, & Liability Act
CFR	Code of Federal Regulations
DMR	Discharge Monitoring Report
EPCRA	Emergency Planning & Community Right-to-Know Act
TDS	Total Dissolved Solids
TIE	Toxicity Identification Evaluation
TRE	Toxicity Reduction Evaluation
TSS	Total Suspended Solids
UAC	Utah Administrative Code
UCA	Utah Code Annotated
UPDES	Utah Pollutant Discharge Elimnation System
WET	Whole Effluent Toxicity

Unit List

mg/L	milligrams per liter
MGD	million gallons per day
ml/L	milliliters per liter
SU	standard units
µg/L	micrograms per liter

B. Description of Discharge Points.

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

Outfall	Description of Discharge Point
001	Discharge of mine water from an eight-inch pipe. Located at latitude 38°54'54" N and longitude 111°24'54" W.
002	Discharge from an eighteen-inch pipe serving as a discharge point from the second sedimentation overflow pond, located at latitude 38°54'32" N and longitude 111°24'57" W.
003	A twenty-four inch discharge pipe at a mine breakout at least 50 feet above the creek. Located at latitude 38°57'26" N and longitude 111°23'06" W.

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C. Narrative Standard.

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

D. Specific Limitations and Self-monitoring Requirements.

1. Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfalls 001, 002 and 003. Such discharges shall be limited and monitored by the permittee as specified below in *Parts I.D1.* through *I.D10.*

Effluent Characteristics	Effluent Limitations				Monitoring Requirements	
	30 Day Average	7 Day Average	Daily Minimum	Daily Maximum	Sample Frequency	Sample Type
Flow, [1]MGD	Report	[2]NA	NA	a/	2/Month	Measured
TSS, mg/L	25	35	NA	70	2/Month	Grab
Total Iron, mg/L	NA	NA	NA	1.0	2/Month	Grab
Oil & Grease, mg/L b/	NA	NA	NA	10	Monthly	Grab
TDS, mg/L	Report	NA	NA	c/	2/Month	Grab
TDS lbs/day	NA	NA	NA	c/	2/Month	Grab
pH, standard units	NA	NA	6.5	9.0	2/Month	Grab
Sanitary Waste d/	NA	NA	NA	None	2/Month	Visual
Oil and Grease, floating solids, visible foam, b/	NA	NA	NA	None	2/Month	Visual
Acute Whole Effluent Toxicity [3]	NA	NA	NA	Pass	Semi-annual	Grab
Chronic Whole Effluent Toxicity [3]	NA	NA	NA	Pass	Semi-annual	Grab

[1] *MGD: million gallons per day* [2] *NA: not applicable* [3] *See Biomonitoring Requirements*

a/ The daily maximum flow allowed at Outfall 002 is 0.5 MGD, and the daily maximum flow allowed at Outfall 003 is 5.5 MGD. No discharge from Outfall 001 is expected, but if it occurs the discharge shall be monitored as required in the table above.

b/ In addition to monthly sampling for oil and grease, a visual inspection for oil and grease, floating solids, and visible foam shall be performed at least twice per month. There shall be no sheen, floating solids, or visible foam in other than trace amounts. If a sheen is observed, a sample of the effluent shall be collected immediately thereafter and oil and grease shall not exceed 10 mg/L in concentration.

c/ **Concentration:** The TDS concentration from Outfalls 001 and 003 shall not exceed 1216 mg/L as a daily maximum limit. See part I.D.3.a of the permit for a compliance schedule relating to the effluent limitation of 1289 mg/L at Outfall 002.
Loading: Outfall 002 will be limited to a TDS mass loading of 2000 pounds per day (one ton per day) and there will be no mass loading limits at Outfalls 001 and 003 until the final compliance date of December 1, 2014 as detailed in Part I.D.3.b of the permit.

d/ There shall be no discharge of sanitary waste.

2. Samples collected in compliance with the monitoring requirements specified above shall be collected at Outfalls 001, 002 and 003 prior to mixing with the receiving water.

3. Compliance Schedules. The permittee shall complete the listed items below by the indicated dates.

a. **TDS Concentration at 002:** By **February 1, 2012**, SUFCO shall submit a plan and time frame to the Director for approval, to meet an effluent limit of 1289 mg/L at Outfall 002. The permit limitation of 1289 mg/L at Outfall 002 will be in abeyance until final implementation is achieved as per the plan and time frame indicated above.

As per a letter from the Division of Water Quality to Mr. Kenneth May, General Manager at SUFCO Mine dated August 8, 2013 (appended to this modified permit), a final fifteen month compliance schedule was granted to allow for compliance of the 1289 mg/L TDS concentration requirement at Outfall 002. The August 8, 2013 letter specifically identified two steps that when completed should provide compliance with the 1289 mg/L TDS limit.

Accordingly this permit is modified to add the following requirements:

(1) The final effluent limit of 1289 mg/L TDS as a daily maximum for Outfall 002 will be effective on December 1, 2014

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(2) SUFCO, on a quarterly basis, until final compliance on December 1, 2014, shall keep the Division of Water Quality informed of the progress made towards achieving the final TDS compliance concentration and date.

b. **TDS Loading (sum of all outfalls):**

(1) By **February 1, 2012** SUFCO shall submit a study plan to the Director for approval, to determine an appropriate loading (tons /day) as a sum from all of its discharge points. This study must comply with Sections I.A.1.a.i and I.A.1.b of Appendix B of the October 2008 Review of the Colorado River Basin Salinity Control Forum Water Quality Standards.

(2) By **May 1, 2013**, SUFCO shall submit a completed study indicating the loading (tons/day) as a sum from all of its discharge points and any type of treatment or mitigation system necessary to achieve the desired loading and associated time frame for construction/implementation. This final plan must be approved by the Director.

As per a letter from the Division of Water Quality to Mr. Kenneth May, General Manager at SUFCO Mine dated August 8, 2013 (appended to this modified permit), SUFCO's plan to comply with the one ton per day loading limit as a sum from all discharge points, is to participate in a salinity offset program. SUFCO requested and was granted an eighteen month compliance schedule for investigation of the existing and anticipated groundwater flows, engineering for planned structural changes, and implementation of the salinity offset program.

Accordingly, this permit is modified to add the following requirements:

(1) The final effluent limit of one ton per day as a sum from all discharge points will be effective on December 1, 2014. All necessary salinity offset projects must be approved and all contracts executed by this date.

(2) For any monthly monitoring period, no TDS tons per day loading limit will apply to a discharge point if the concentration of TDS in the discharge is equal to or less than 500 mg/L as a thirty day average.

However if the thirty day average concentration exceeds 500 mg/l, the permittee cannot discharge more than one ton per day as a sum from those discharge points over the 500 mg/L thirty day average.

If SUFCO cannot meet the 500 mg/L thirty day average or the one ton per day loading limit, the permittee is required to participate in and/or fund a salinity offset project(s) to include salinity offset credits as appropriate. The salinity offset project shall include TDS credits on a ton- for-ton basis for which the permittee is over the one ton per day loading limit. The tonnage reduction from the offset project must be calculated by a method similar to the one used by the NRCS, Colorado Basin Salinity Control forum, or other applicable agency.

If the permittee will be funding any additional offset projects through third parties, the permittee shall provide satisfactory evidence to the Director that the required funds have been deposited to the third party within six months of project approval by the Director. A monitoring and adjustment plan to track the TDS credits shall be submitted to the Director for each monthly monitoring period during the remaining life of this permit. Any changes to the monitoring and adjustment plan must be approved by the Director, and upon approval shall be appended to this permit.

(3) SUFCO shall, on a quarterly basis, until final compliance on December 1, 2014, inform the Director of progress made toward achieving the one ton per day loading limit. These progress reports can be submitted with the monthly discharge monitoring report submittals

4. Should any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period that is less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may, at Outfall 002, substitute the following limitations for the TSS and pH limitations contained in *Part I.D.1*:

Effluent Characteristics	Daily Minimum	Daily Maximum
Settleable solids (SS), milliliter/liter	NA	0.5
pH, SU	6.0	9.0

In order to substitute the above limitations, the sample collected during the storm event must be analyzed for all permitted parameters specified under *Part I.D.1.* (excepting TSS). Such analyses shall be conducted on either grab or composite samples.

Should any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period that is greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may, at outfall 002, comply with the following pH limitation instead of the limitation contained in *Part I.D.1*:

Effluent Characteristics	Daily Minimum	Daily Maximum
pH, SU	6.0	9.0

In order to substitute the above limitation, the sample collected during the storm event must be analyzed for all permitted parameters specified under *Part I.D.1.* Such analyses shall be conducted on either grab or composite samples.

The operator shall have the burden of proof that the increase in discharge was caused by the applicable precipitation event described in *Part I.D.4.* The alternate limitations in *Part I.D.4* shall not apply to treatment systems that treat exclusively underground mine water (i.e. outfalls 001 and 003).

5. Whole Effluent Testing - Acute Toxicity.

Starting on the effective date of this permit, the permittee shall semi-annually conduct acute static replacement toxicity tests on a separate grab sample of the final effluent at outfalls 001 and/or 003. Acute testing shall alternate quarterly with chronic testing. This would require two acute and two chronic tests to be completed each year.

The monitoring frequency for acute tests shall be semi-annually 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.7, 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 for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organism", EPA-821/R-02-012 (October 2002).* The permittee shall conduct the 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). One specie shall be used for each test, thus requiring alternating species each test.

Acute toxicity occurs when 50 percent or more mortality is observed for either species at any effluent concentration (LC_{50}>100% effluent). 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.

Semi-annual test results shall be reported along with the Discharge Monitoring Report (DMR) submitted for the end of the reporting calendar month coinciding with the end of the semi-annual period. The format for the report shall be consistent with the EPA Region 8 website: http://www.epa.gov/region8/water/wet/documents.html under Whole Effluent Toxicity Reporting forms.

If the results for 10 consecutive tests indicate no acute toxicity, the permittee may request a reduction in testing frequency and/or reduction to one species. The Director 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.

6. Whole Effluent Testing - Chronic Toxicity.

Starting on the effective date of this permit, the permittee shall semi-annually conduct chronic short-term toxicity tests on a grab sample of the final effluent. The sample shall be collected at outfalls 001 and/or 003.

The monitoring frequency shall be semi-annually. Samples shall be collected on a two-day progression; i.e., if the first sample is on a Monday, during the next sampling period, sampling shall be on a Wednesday. If chronic toxicity is detected, the test shall be

repeated in less than four weeks from the date the initial sample was taken. The need for any additional samples, and/or a Toxicity Reduction Evaluation (TRE, see Part I.D.10.) shall be determined by the Director. If the second test shows no chronic toxicity, routine monitoring shall be resumed.

The chronic toxicity tests shall be conducted in general accordance with the procedures set out in the latest revision of "*Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms", EPA-821/R-02/013 (October2002).* Test species shall consist of Ceriodaphnia dubia and Pimephales promelas (fathead minnow) one specie shall be used for each test, thus requiring alternating species each test.

Chronic toxicity occurs when the survival, growth, or reproduction for either test species, when exposed to a dilution of 98 percent effluent or lower, is significantly less (at 95% confidence level) than that of the control specimens. Dilutions of 98 percent only will be required, plus the control. If any of the acceptable control performance criteria are not met, the test shall be considered invalid.

Semi-annual test results shall be reported along with the Discharge Monitoring Report (DMR) submitted for the end of the reporting calendar month coinciding with the end of the semi-annual period. The format for the report shall be consistent with the Region 8 website: http://www.epa.gov/region8/water/wet/documents.html under the Whole Effluent Toxicity Reporting forms.

If the results for 10 consecutive tests indicate no chronic toxicity, the permittee may request a reduction in testing frequency and/or reduction to one species. The Director 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.

The current Utah whole effluent toxicity (WET) policy is in the process of being updated and revised to assure its consistency with the Environmental Protection Agency's national and regional WET policy. When said revised WET policy has been finalized and officially adopted, this permit will be reopened and modified to incorporate satisfactory follow-up chronic toxicity language (chronic pattern of toxicity, PTI and/or TIE/TRE, etc.) without a public notice, as warranted and appropriate.

7. Accelerated Testing.

When acute toxicity is indicated during routine biomonitoring as specified in this permit, the permittee shall notify the Director 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 Director 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 triggering 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 Director 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 Director. 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 Director. 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 Director, may be incorporated into the permit.

c. If no probable explanation for toxicity is identified in the PTI, the permittee shall notify the Director 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 Director as part of the reporting requirements of paragraph 1 of this section.

10. Toxicity Reduction Evaluation (TRE).

If toxicity is detected and it is determined by the Director 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 Director. 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 Director, 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 Director, this permit may be reopened and modified to incorporate any additional numerical limitations, a modified compliance schedule if judged necessary by the Director, 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 Director, shall be considered a violation of this permit.

PN Draft

II. STORM WATER DISCHARGE REQUIREMENTS

A. Coverage of This Section.

1. Discharges Covered Under This Section. The requirements listed under this section shall apply to storm water discharges from the industrial facility.

   a. Site Coverage. This section covers discharges of storm water associated with industrial activity to waters of the State from the confines of the facility listed on the cover page. Specific monitoring requirements have been included and are based on the requirements of the UPDES Multi Sector General Permit for Storm Water Discharges Associated with Industrial Activity, Permit No. UTR000000.

B. Prohibition of Non-Storm Water Discharges.

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

C. Storm Water Pollution Prevention Plan Requirements: Contents of the Plan.

The plan shall include, at a minimum, the following:

1. Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team who 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.

2. Description of Potential Pollutant Sources. Each 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. Each plan shall identify all activities and significant materials, which may be reasonably expected to have the potential as a significant pollutant source. Each plan shall include, at a minimum:

   a. Drainage. A site map must be maintained indicating drainage areas and storm water outfalls. For each area of the facility that generates storm water discharges associated with the waste water treatment related activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow and an identification of the types of pollutants that are likely to be present in storm water discharges associated with the activity. Factors to consider include the toxicity of the pollutant; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified. The site map shall include but not be limited to:

      (1) Drainage direction and discharge points from all wastewater associated discharges.

      (2) Location of any erosion and sediment control structure or other control measures utilized for reducing pollutants in storm water runoff.

      (3) Location of any handling, loading, unloading or storage of chemicals or potential pollutants such as caustics, hydraulic fluids, lubricants, solvents or other petroleum products, or hazardous wastes and where these may be exposed to precipitation.

      (4) Locations where any major spills or leaks of toxic or hazardous materials have occurred

      (5) Location of any sand or salt piles.

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(6) Location of fueling stations or vehicle and equipment maintenance and cleaning areas that are exposed to precipitation.

(7) Location of receiving streams or other surface water bodies.

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

b. 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 effective date of this permit; 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 effective date 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.

c. 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.

d. 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.

e. Summary of Potential Pollutant Sources and Risk Assessment. A narrative description of the potential pollutant sources from the following activities associated with treatment works: access roads/rail lines; loading and unloading operations; outdoor storage activities; material handling sites; outdoor vehicle storage or maintenance sites; significant dust or particulate generating processes;

and onsite waste disposal practices. Specific potential pollutants shall be identified where known.

3. Measures and Controls. The facility 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:

   a. Good Housekeeping. All areas that may contribute pollutants to storm waters discharges shall be maintained in a clean, orderly manner. These are 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. Areas where good housekeeping practices should be implemented are storage areas for raw materials, waste materials and finished products; loading/unloading areas and waste disposal areas for hazardous and non-hazardous wastes. Examples of good housekeeping measures include; sweeping; labeling drums containing hazardous materials; and preventive monitoring practices or equivalent measures.

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

   c. Spill Prevention and Response Procedures. Areas where potential spills that can contribute pollutants to storm water discharges can occur, and their accompanying drainage points, shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures and equipment for cleaning up spills shall be identified in the plan and made available to the appropriate personnel.

d. Inspections. In addition to the comprehensive site evaluation required under *Part II.D.*, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility on a periodic basis. The following areas shall be included in all inspections: loading and unloading areas for all significant materials; storage areas, including associated containment areas; waste management units; and vents and stacks from industrial activities. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained. The use of a checklist developed by the facility is encouraged.

e. Employee Training. Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify how often training will take place, but training should be held at least annually (once per calendar year). Employee training must, at a minimum, address the following areas when applicable to a facility: petroleum product management; process chemical management; spill prevention and control; fueling procedures; general good housekeeping practices; proper procedures for using fertilizers, herbicides and pesticides.

f. Record Keeping 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 *Part II.C*. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

g. Non-storm Water Discharges.

(1) Certification. The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of

potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with *Part V.G.* of this permit.

(2) Exceptions. Except for flows from fire fighting activities, sources of non-storm water listed in *Part II.B. (Prohibition of Non-storm Water Discharges)* 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.

(3) Failure to Certify. Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director within 180 days of the effective date of this permit. 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 that are not authorized by a UPDES permit are unlawful, and must be terminated.

h. Sediment and Erosion Control. The plan shall identify areas, which, 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.

i. Management of Runoff. The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants)

used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (*see Part II.C.2, Description of Potential Pollutant Sources*) shall be considered when determining reasonable and appropriate measures. Appropriate measures or other equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, wet detention/retention devices and discharging storm water through the waste water facility for treatment.

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

2. Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with *Part II.C.2. (Description of Potential Pollutant Sources)* and pollution prevention measures and controls identified in the plan in accordance with *Part II.C.3. (Measures and Controls)* shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

3. A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with *Part II.C.3.i.* Shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with *Part IV.G (Signatory Requirements)* of this permit.

4. Deadlines for Plan Preparation and Compliance. The facility shall prepare and implement a plan in compliance with the provisions of *Part II* of this permit within 270 days of the permit effective date.

5. Keeping Plans Current. The facility shall amend the plan whenever there is a change in design, construction, operation, or maintenance, that has a significant effect on the potential for the discharge of pollutants to the waters of the state or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified by the plan, or in otherwise achieving the general objective of controlling pollutants in storm water discharges associated with the activities at the facility.

E. Monitoring and Reporting Requirements

1. Semi-annual Visual Examination of Storm Water Quality. The facility shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each of the following designated periods during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event: January through June; July through December.

   a. Sample and Data Collection. Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a

well-lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges.

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

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

d. Adverse Conditions. When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the results of the visual examination. Adverse weather conditions, which may prohibit the collection of samples, include weather conditions that create dangerous conditions

for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

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

F. *EPCRA Section 313* Requirements.

1. In areas where *Section 313* water priority chemicals are stored, processed or otherwise handled, appropriate containment, drainage control and/or diversionary structures shall be provided. At a minimum, one of the following preventive systems or its equivalent shall be used:

   a. Curbing, culverting, gutters, sewers, or other forms of drainage control to prevent or minimize the potential for storm water run-on to come into contact with significant sources of pollutants; or
   b. Roofs, covers or other forms of appropriate protection to prevent storage piles from exposure to storm water and wind.

2. No tank or container shall be used for the storage of a *Section 313* water priority chemical unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature, etc.

   Liquid storage areas for *Section 313* water priority chemicals shall be operated to minimize discharges of *Section 313* chemicals. Appropriate measures to minimize discharges of *Section 313* chemicals may include secondary containment provided for at least the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation, a strong spill contingency and integrity testing plan, and/or other equivalent measures.

3. Material storage areas for *Section 313* water priority chemicals other than liquids that are subject to runoff, leaching, or wind shall

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incorporate drainage or other control features that will minimize the discharge of *Section 313* water priority chemicals by reducing storm water contact with *Section 313* water priority chemicals.

4. Truck and rail car loading and unloading areas for liquid *Section 313* water priority chemicals shall be operated to minimize discharges of *Section 313* water priority chemicals. Protection such as overhangs or door skirts to enclose trailer ends at truck loading/unloading docks shall be provided as appropriate. Appropriate measures to minimize discharges of *Section 313* chemicals may include: the placement and maintenance of drip pans (including the proper disposal of materials collected in the drip pans) where spillage may occur (such as hose connections, hose reels and filler nozzles) for use when making and breaking hose connections; a strong spill contingency and integrity testing plan; and/or other equivalent measures.

5. Processing equipment and materials handling equipment shall be operated so as to minimize discharges of *Section 313* water priority chemicals. Materials used in piping and equipment shall be compatible with the substances handled. Drainage from process and materials handling areas shall minimize storm water contact with *Section 313* water priority chemicals. Additional protection such as covers or guards to prevent exposure to wind, spraying or releases from pressure relief vents from causing a discharge of *Section 313* water priority chemicals to the drainage system shall be provided as appropriate. Visual inspections or leak tests shall be provided for overhead piping conveying *Section 313* water priority chemicals without secondary containment.

6. Drainage from areas covered by *Parts II.F. 1*, *2*, *3*, or *4* should be restrained by valves or other positive means to prevent the discharge of a spill or other excessive leakage of *Section 313* water priority chemicals. Where containment units are employed, such units may be emptied by pumps or ejectors; however, these shall be manually activated.

   Flapper-type drain valves shall not be used to drain containment areas. Valves used for the drainage of containment areas should, as far as is practical, be of manual, open-and-closed design.
   If facility drainage is not engineered as above, the final discharge of all in-facility storm sewers shall be equipped to be equivalent with a diversion system that could, in the event of an uncontrolled spill of *Section 313* water priority chemicals, return the spilled material to the facility.

Records shall be kept of the frequency and estimated volume (in gallons) of discharges from containment areas.

7. Other areas of the facility (those not addressed in *Parts II.F. 1*, *2*, *3*, or *4*, from which runoff that may contain *Section 313* water priority chemicals or spills of *Section 313* water priority chemicals could cause a discharge shall incorporate the necessary drainage or other control features to prevent discharge of spilled or improperly disposed material and ensure the mitigation of pollutants in runoff or leachate.

8. All areas of the facility shall be inspected at specific intervals identified in the plan for leaks or conditions that could lead to discharges of *Section 313* water priority chemicals or direct contact of storm water with raw materials, intermediate materials, waste materials or products. In particular, facility piping, pumps, storage tanks and bins, pressure vessels, process and material handling equipment, and material bulk storage areas shall be examined for any conditions or failures that could cause a discharge. Inspection shall include examination for leaks, wind blowing, corrosion, support or foundation failure, or other forms of deterioration or non-containment. Inspection intervals shall be specified in the plan and shall be based on design and operational experience. Different areas may require different inspection intervals. Where a leak or other condition is discovered that may result in significant releases of *Section 313* water priority chemicals to waters of the State, action to stop the leak or otherwise prevent the significant release of *Section 313* water priority chemicals to waters of the State shall be immediately taken or the unit or process shut down until such action can be taken. When a leak or non-containment of a *Section 313* water priority chemical has occurred, contaminated soil, debris, or other material must be promptly removed and disposed in accordance with Federal, State, and local requirements and as described in the plan.

9. Facilities shall have the necessary security systems to prevent accidental or intentional entry that could cause a discharge. Security systems described in the plan shall address fencing, lighting, vehicular traffic control, and securing of equipment and buildings.

10. Facility employees and contractor personnel that work in areas where *Section 313* water priority chemicals are used or stored shall be trained in and informed of preventive measures at the facility. Employee training shall be conducted at intervals specified in the plan, but not less than once per year. Training shall address:

pollution control laws and regulations, the storm water pollution prevention plan and the particular features of the facility and its operation that are designed to minimize discharges of *Section 313* water priority chemicals. The plan shall designate a person who is accountable for spill prevention at the facility and who will set up the necessary spill emergency procedures and reporting requirements so that spills and emergency releases of *Section 313* water priority chemicals can be isolated and contained before a discharge of a *Section 313* water priority chemical can occur. Contractor or temporary personnel shall be informed of facility operation and design features in order to prevent discharges or spills from occurring.

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III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Representative Sampling.

Samples taken in compliance with the monitoring requirements established under *Part I* shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. 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 DMR 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 WET test reports required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (Part V.G.)*, and submitted by NetDMR, or submitted to the Division of Water Quality at the following address:

original to: Department of Environmental Quality
Division of Water Quality
195 North 1950 West
PO Box 144870
Salt Lake City, Utah 84114-4870

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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 Director 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 that may seriously endanger health or environment as soon as possible, but no later than 24 hours from the time the permittee first became aware of circumstances. The report shall be made to the Division

of Water Quality, (801) 536-4300, 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 that may endanger health or the environment;

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

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

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

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

   a. A description of the noncompliance and its cause;

   b. The period of noncompliance, including exact dates and times;

   c. The estimated time noncompliance is expected to continue if it has not been corrected; 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 Director 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) 536-4300.

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

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J. Other Noncompliance Reporting.

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

K. Inspection and Entry.

The permittee shall allow the Director, 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.

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IV. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply.

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and re-issuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

B. Penalties for Violations of Permit Conditions.

The *Act* provides that any person who violates a permit condition implementing provisions of the *Act* is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions of the Act is subject to a fine not exceeding $25,000 per day of violation; Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding $50,000 per day. Except as provided at *Part IV.G, Bypass of Treatment Facilities* and *Part IV.H, Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

C. Need to Halt or Reduce Activity not a Defense.

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

D. Duty to Mitigate.

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that 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 that 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, sludge, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner 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 *Parts IV.G.2. and IV.G.3.*

2. Prohibition of Bypass.

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

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

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

      (3) The permittee submitted notices as required under *Part IV.G.3.*

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

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3. Notice.

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

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

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

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

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

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

(6) Any additional information requested by the Director.

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

c. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass to the Director as required under *Part III.I., Twenty-four-Hour Notice of Non-Compliance* Reporting. The permittee shall also immediately notify the Director of the Department of Natural Resources, the

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public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

H. Upset Conditions.

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

2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a. An upset occurred and that the permittee can identify the cause(s) of the upset;

   b. The permitted facility was at the time being properly operated;

   c. The permittee submitted notice of the upset as required under *Part III.I, Twenty-four Hour Notice of Noncompliance Reporting*; and,

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

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

I. Toxic Pollutants.

The permittee shall comply with effluent standards or prohibitions established under *Section 307(a)* of *The Water Quality Act of 1987* for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

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J. Changes in Discharge of Toxic Substances.

Notification shall be provided to the Director as soon as the permittee knows of, or has reason to believe:

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

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

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

   c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(7)* or (10); or,

   d. The level established by the Director 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 µg/L);

   b. One milligram per liter (1 mg/L) for antimony:

   c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(9)*; or,

   d. The level established by the Director 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

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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).

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V. GENERAL REQUIREMENTS

A. Planned Changes.

The permittee shall give notice to the Director 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 that 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 Director of any planned changes at least 30 days prior to their implementation.

B. Anticipated Noncompliance.

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity that 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 re-issuance, 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 Director, within a reasonable time, any information which the Director 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 Director, upon request, copies of records this permit requires to be kept.

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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 Director, it shall promptly submit such facts or information.

G. Signatory Requirements.

All applications, reports or information submitted to the Director 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 Director 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 Director, 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 *Part V.G.2.* is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of *Part V.G.2.* must be submitted to the Director 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 *Part V.G.* 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 Director. 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 provision of this permit, or the application of any provision of this permit to any

circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

M. Transfers.

This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Director 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 Director 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 *Part V.M.2.*

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 waste load 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.5 through I.D.10* 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 Director 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 Director agrees that numerical controls are the most appropriate course of action.

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

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

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