

Official Draft Public Notice Version, May 15, 2013

The findings, determinations and assertions contained in the 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"),

JORDAN VALLEY WATER CONSERVANCY DISTRICT

is hereby authorized to discharge from its facility located in West Jordan in Salt Lake County, Utah, with the outfalls located at the following:

<u>Outfall</u>	<u>Latitude</u>	<u>Longitude</u>	<u>To receiving waters named</u>
001	40°45'37.59"N	112°10'13.32"W	Transitional Waters and Gilbert Bay of Great Salt Lake
002	40°36'5.58"N	111°55'13.37"W	Jordan River

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

This permit shall become effective on Month, 2013

This permit expires at midnight, Month, 2018

Signed the th day of , 2013

Walter L. Baker, P.E.
Director
Utah Division of Water Quality

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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. "Daily Maximum" ("Daily Max.") is the maximum value allowable in any single sample or instantaneous measurement.
3. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
4. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
5. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
6. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
7. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
8. "Director" means Director of the Utah Division of Water Quality.
9. "EPA" means the United States Environmental Protection Agency.
10. "Act" means the "*Utah Water Quality Act*".
11. "Best Management Practices" ("*BMP's*") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. *BMP's* also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
12. "CWA" means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.

13. "Point Source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharges. This term does not include return flows from irrigated agriculture or agriculture storm water runoff.
14. "Significant spills" includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under *Section 311* of the *Clean Water Act* (see *40 CFR 110.10* and *40 CFR 117.21*) or *Section 102* of *CERCLA* (see *40 CFR 302.4*).
15. "Acute toxicity" occurs when 50 percent or more mortality is observed for either test species at any effluent concentration (lethal concentration or "LC₅₀").
16. "Chronic toxicity" occurs when the survival, growth, or reproduction for either test species exposed to a specific percent effluent dilution is significantly less (at the 95 percent confidence level) than the survival, growth, or reproduction of the control specimens.
17. "IC25" 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.
18. "Composite Samples" shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the compositing 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 sample volume, with sample collection rate proportional to flow rate.

B. Description of Discharge Point.

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

<u>Outfall Number</u>	<u>Location of Discharge Point(s)</u>
001	Located at latitude 40°45'37.59"N and longitude 112°10'13.32"W. This outfall will convey byproduct and excess untreated groundwater from the deep aquifer. The discharge is through a 16-inch diameter pipe directly to the Transitional Waters and Gilbert Bay of the Great Salt Lake. The compliance monitoring point is at the Southwest Groundwater Treatment Plant prior to effluent entering the 21 mile byproduct pipeline. (Except for end of pipe monitoring as required in <i>Part I.D. Self Monitoring and Reporting Requirements, Footnotes b/ and e/</i> of the UPDES permit.)
002	Located at latitude 40°36'5.58"N and longitude 111°55'13.37"W. The discharge will consist only of untreated shallow aquifer groundwater that has not been impacted by mining activities through a 30-inch diameter pipe from the river discharge vault at the Southwest Groundwater Treatment Plant to the Jordan River.

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, there shall be no toxics in toxic amounts from Outfalls 001 and 002 as determined by test procedures described in *Part I.D.* of this permit.
2. Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfalls 001 and 002. Such discharges shall be limited and monitored by the permittee as specified below:

Parameter	Effluent Limitations Outfall 001 <u>a/b/c/d/e/</u>				
	Max Monthly Average	Max Weekly Average	Daily Min	Daily Max	Annual Max
Total Flow, MGD <u>f/g/</u>	3.0				
Selenium, total, mg/L				0.054	
Selenium, kg/year					224
Selenium <u>h/</u>					
TSS, mg/L	25	35		70	
Mercury, kg/yr <u>i/j/</u>					0.38
Oil & Grease, mg/L				10	
pH, Standard Units			6.5	9.0	
WET, Chronic Biomonitoring, Both Species				Pass IC ₂₅ (EOP)	

- a/ See definitions Part I.A. for definition of terms.
- b/ All parameters in this table will be reported monthly in the monthly Discharge Monitoring Report.
- c/ Metals samples should be analyzed using a method that meets MDL requirements. If a test method is not available the permittee must submit documentation to the Director regarding the method that will be used. The sample type (composite or grab) should be performed according to the methods requirements.
- d/ There shall be no visible sheen or floating solids or visible foam in other than trace amounts.
- e/ There shall be no discharge of sanitary wastes.
- f/ Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained.
- g/ The flow rates and durations of all discharges shall be reported in the Annual Project Operating Report.
- h/ Implementation of the selenium water quality standard of 12.5 mg/kg for Gilbert Bay of the GSL is outlined in Part I.D.8 of this UPDES Permit.
- i/ Mercury samples must be analyzed using Method 1631 or other sufficiently sensitive method. The sample type (composite or grab) should be performed according to the method's requirements.
- j/ This load constitutes 1% of the annual mercury load entering the GSL from all sources for this parameter and may change once the aquifer is fully characterized or other information on the effluent or receiving water becomes available.

Parameter	Effluent Limitations Outfall 002 <u>a/b/c/d/e/</u>				
	Max Monthly Average	Max Weekly Average	Daily Min	Daily Max	Annual Max
TDS, mg/L				1,200	

Selenium, total, kg/yr				26.4
Selenium, mg/L			0.027	
TSS, mg/L	25	35	70	
Oil & Grease, mg/L			10	
pH, Standard Units			6.5	9.0
WET, Acute Biomonitoring, both species				Pass LC ₅₀ (EOP)

- a/ See definitions Part I.A. for definition of terms.
- b/ All of the parameters in the above table, shall be reported monthly in the Discharge Monitoring Report.
- c/ Metals samples should be analyzed using a method that meets MDL requirements. If a test method is not available the permittee must submit documentation to the Director regarding the method that will be used. The sample type (composite or grab) should be performed according to the methods requirements.
- d/ There shall be no visible sheet or floating solids or visible foam in other than trace amounts.
- e/ There shall be no discharge of sanitary wastes.

Self-Monitoring and Reporting Requirements, Outfall 001 <u>a/b/c/</u>			
Parameter	Frequency	Sample Type	Units
Total Flow	Daily or Continuous	Measured	MGD
Total Mercury	Monthly	Composite or Grab	ng/L
Total Mercury <u>d/</u>	Monthly	Calculated	kg/yr
Total Selenium	2 x Weekly	Composite or Grab	mg/L
Total Selenium <u>d/</u>	Monthly	Calculated	kg/yr
TSS <u>e/</u>	2 x Weekly	Composite or Grab	mg/L
Selenium	Annually	Bird Eggs	mg/kg
Oil & Grease	Monthly if sheen is observed	Grab	mg/L
pH	Monthly	Grab	SU
WET, Chronic Biomonitoring	Quarterly, alternating species	Composite	Pass/fail

- a/ See definitions Part I.A. for definition of terms.
- b/ Jordan Valley shall also monitor all parameters and BOD₅, quarterly at the end of pipe for the first year of operation and then bi-annually thereafter. If lake levels rise where monitoring at end of pipe is not feasible, then Jordan Valley may petition the Director to establish an alternate sampling point.
- c/ Mercury samples must be analyzed using Method 1631 or other sufficiently sensitive method. The sample type (composite or grab) should be performed according to the methods requirements
- d/ Cumulative totals for these parameters shall be reported on the monthly Discharge Monitoring Reports.
- e/ Monitoring of this parameter is required at end of pipe during pipeline cleaning operations. Monitoring results must be included with the DMR for that monitoring period. If lake levels rise

where monitoring at end of pipe is not feasible, then Jordan Valley may petition the Director to establish an alternate sampling point.

Self-Monitoring and Reporting Requirements, Outfall 002 <u>a/b/c/</u>			
Parameter	Frequency	Sample Type	Units
Total Flow	Daily or Continuous	Measured	MGD
TDS	2 x Weekly	Composite or Grab	mg/L
Total Selenium	2 x Weekly	Composite or Grab	mg/L
Total Selenium <u>d/</u>	Annually	Calculated	kg/yr
TSS	2 x Weekly	Composite or Grab	mg/L
Mercury	Monthly	Composite or Grab	ng/L
Oil & Grease	2 x Weekly, if sheen is observed	Grab	mg/L
pH	2 x Weekly	Grab	SU
WET, Acute Biomonitoring	Quarterly, both species	Composite	Pass/Fail

- a/ See definitions Part I.A. for definition of terms.
- b/ Mercury samples must be analyzed using Method 1631 or other sufficiently sensitive method. The sample type (composite or grab) should be performed according to the methods requirements.
- c/ Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained.
- d/ Cumulative totals for this parameter shall be reported on the monthly Discharge Monitoring Reports.
3. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations: 001 shall be monitored at the Southwest Groundwater Treatment Plant prior to the effluent entering the byproduct pipeline and 002 shall be monitored prior to mixing with any receiving water.
 4. ***Annual Project Operating Report for Pump to Waste, Upset Discharges and Cleaning and Maintenance Conditions for the Shallow Wells:*** On an annual basis, Jordan Valley will summarize the duration and frequency of all pump to waste discharges, discharges associated with cleaning and maintenance of the RO unit and any discharges resulting from facility upset conditions that occurred during that calendar year. This summary will be submitted to the DWQ by February 1st of the following year.
 5. ***Deep Aquifer Compliance Schedule:*** The permittee shall submit to the DWQ a sampling and analysis plan for characterization of the mercury concentration in the deep aquifer for approval within three months of the effective date of this permit. The characterization and a summary of the findings and all supporting water quality data

shall be submitted to the DWQ within one year of the Southwest Groundwater Treatment Plant becoming operational.

6. ***Joint Discharge Area Transitional Waters Monitoring Program:*** Jordan Valley is required to annually sample eight (8) bird eggs, if available, but not to exceed 20% of available eggs, during the nesting season, April 15 through June 30, for the current permit cycle. The eggs will be collected from bird nests in the joint Jordan Valley Outfall 001 and Kennecott Outfall 012 affected outfall area. These samples will be subject to the tissue based selenium water quality standard of 12.5 mg/kg dry weight for Gilbert Bay of Great Salt Lake to demonstrate compliance with the Narrative Standard. Jordan Valley must notify the Director within 7 business days of becoming aware of any egg concentrations that exceed 9.8 mg/kg. In addition, total mercury concentrations in the egg tissue samples must also be evaluated and reported by Jordan Valley.

Jordan Valley will conduct annual bird surveys approximately every two weeks between April 15 and June 30 (four times per season) to document bird abundance, diversity, and use of the Outfall 001 mud flat habitat, particularly for evidence of feeding and nesting using methodology approved by the Director. This data will be submitted in the Annual Project Operating Report.

Jordan Valley is required to annually collect co-located macroinvertebrate, water and sediment samples once between April 15 and June 30 and as close in time as practical to the bird egg collection. These samples will be analyzed for selenium, biota and sediment will also be analyzed for total mercury, water samples will be analyzed for methyl and total mercury. The co-located macroinvertebrates, sediment and water samples will be collected at up to six (6) evenly spaced locations along the discharge watercourse from the discharge point to the waters edge from where Outfall 001 enters the standing waters of Great Salt Lake.

Jordan Valley is required to biannually collect co-located brine shrimp and water samples twice per year from the open waters of Gilbert Bay in the vicinity of the outfall. Jordan Valley is required to submit an addendum to the Sampling Plan for approval by the Director within 90 days of issuance of this permit that includes the sampling methods and geographic coordinates to define the sampling area. Sample collection is constrained by brine shrimp dynamics in the sampling area as brine shrimp may not always be present when sampling is attempted. The Sampling Plan addendum will also include the minimum number of days that sampling will be attempted. The intent is to collect brine shrimp samples as close as available to where the effluent waters enter Gilbert Bay between April 15 and June 30 and in October. The water sample will be analyzed for total and methyl mercury and selenium. The brine shrimp sample will be analyzed for total mercury and selenium.

DWQ strongly recommends that Jordan Valley coordinate with other facilities that discharge in the same delta to avoid needless duplication and further impact to avian wildlife in the delta area. Other monitoring requirements may be shared if appropriate. The Director shall be notified as soon as possible, but no later than April 1, if the

efforts to coordinate monitoring with other dischargers to the delta area are unsuccessful. The detailed field and laboratory data, analysis and a summary of the results from the bird surveys, egg samples and co-located water, sediment and macroinvertebrates' monitoring must be submitted to the DWQ by February 1, or another agreed upon date, following the end of the calendar year for which the results were obtained as a part of the Annual Project Operating Report.

7. ***Mercury Monitoring of Byproduct Pipeline:*** Upon the commencement of operations at the Southwest Groundwater Treatment Plant, Jordan Valley shall monitor the methyl mercury and total mercury concentrations of the byproduct in April and June of each year at the following monitoring locations: prior to entering the byproduct pipeline and at the end of pipeline (Outfall 001) prior to mixing with the receiving water. The analysis must be submitted with the DMR following the monitoring period.

8. ***Implementation of the 12.5 mg/kg Se Tissue Based Standard:*** Jordan Valley is subject to the following actions when the annual geometric mean concentrations outlined below exist in bird eggs collected as part of the approved *Joint Discharge Area Transitional Waters Monitoring Program*:

9.8 to 12.4 mg/kg Se and above: Jordan Valley will prepare and implement a plan to decrease bird exposures to Se in the delta. The plan, including an implementation schedule, must be approved by the Director within 180 days of notice that this condition exists.

12.5 mg/kg Se and above: The reopener provision for this permit will be exercised and Jordan Valley will be subject to additional load restrictions.

11. Whole Effluent Toxicity (WET) Testing.

- a. *Whole Effluent Testing – Acute Toxicity.* Beginning with the start-up of the treatment plant, the permittee shall conduct quarterly acute static replacement toxicity tests on a composite sample from the end of pipe (EOP) of the final effluent. The sample shall be collected at Outfall 002.

The monitoring frequency for acute tests shall be quarterly unless a sample is found to be acutely toxic during a routine test. If that occurs, the monitoring frequency shall become weekly (See *Part I.8.b, 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 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, 5th Edition*, (EPA 821/R/02/012), October 2002, as per 40 CFR 136.3(a) TABLE 1A-LIST OF APPROVED BIOLOGICAL METHODS. 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).

Acute toxicity occurs when 50 percent or more mortality is observed for either species at any effluent concentration (LC_{50}). 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 Director 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 (DMR) submitted for the end of the reporting calendar quarter e.g., biomonitoring results for the calendar quarter ending March 31 shall be reported with the DMR due April 28, with the remaining biomonitoring reports submitted with DMRs due each July 28, October 28, and January 28). All test results shall be reported along with the DMR submitted for that reporting period. The format for the report shall be consistent with the latest revision of the *Region VIII Guidance for Acute Whole Effluent Reporting (August, 1997)* and shall include all chemical and physical data as specified.

If the results for a minimum of ten consecutive tests for each test species indicate no acute toxicity, the permittee may request a reduction in testing frequency and/or reduction of test 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.

- b. *Whole Effluent Testing – Chronic Toxicity.* Beginning with the start-up of the treatment plant, the permittee shall quarterly conduct short-term toxicity tests on a composite sample of the final effluent. The sample shall be collected at Outfall 001.

The monitoring frequency for Chronic WET testing shall be quarterly. 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.C.11.f, 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 Waters to Marine and Estuarine Organisms. Third Edition. U.S. Environmental Protection Agency, Office of Water, Washington, D.C. EPA 821-R-02-014, and the Region VIII EPA NPDES Chronic Test Conditions - Static Renewal Whole Effluent Toxicity Test (August, 1997)*. Test species shall consist of *Americamysis bahia* (mysid shrimp) and *Cyprinodon variegatus* (sheepshead minnow). A CO₂ atmosphere may be used (in conjunction with an unmodified test) in order to account for artificial pH drift, as previously demonstrated to and authorized by the Director.

Chronic toxicity occurs when the survival, growth, or reproduction for either test species, when exposed to a concentration of 100 percent effluent, is significantly less (at 95%

confidence level) than that of the control specimens. Concentrations of 100 percent effluent only will be required, plus the control. If any of the acceptable control performance criteria are not met, the test shall be considered invalid. IC25 is the inhibition 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.

Quarterly test results shall be reported along with the Discharge Monitoring Report (DMR) submitted for the end of the reporting calendar quarter (e.g., biomonitoring results for the calendar quarter ending March 31 shall be reported with the DMR due April 28, with the remaining biomonitoring reports submitted with DMRs due each July 28, October 28, and January 28). All test results shall be reported along with the DMR submitted for that reporting period. The format for the report shall be consistent with the latest revision of the Region VIII Guidance for Chronic Whole Effluent Reporting (August, 1997) and shall include all the physical testing as specified.

If the results for a minimum of ten 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.

- c. *Accelerated Testing.* When acute toxicity is indicated during routine biomonitoring as specified in this permit, the permittee shall notify the Director in writing within five (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 (7) days after the permittee becomes aware of the test result. Accelerated testing shall be conducted as specified under *Part I.C.3.c., Pattern of Toxicity*. If the accelerated testing demonstrates no pattern of toxicity, routine monitoring shall be resumed.
- d. *Pattern of Toxicity.* A pattern of toxicity is defined by the results of a series of up to five (5) 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 (5) 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 five (5) days, and resume routine monitoring.

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

- (1) If two (2) consecutive test results (not including the scheduled quarterly or monthly test, which triggered the search for a pattern of toxicity) indicate acute toxicity, this constitutes an established pattern of toxicity.
- (2) If consecutive tests continue to yield differing results each time, the permittee will be required to conduct up to a maximum of five (5) acute tests (not including the scheduled quarterly or monthly test which triggered the search for a pattern of toxicity). If three out of five test results indicate acute toxicity, this will constitute an established pattern of toxicity.

e. *Preliminary Toxicity Investigation.*

- (1) When a pattern of toxicity is detected the permittee will notify the Director in writing within five (5) days and begin an evaluation of the possible causes of the toxicity. The permittee will have fifteen (15) working days from demonstration of the pattern 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.
- (2) If the PTI identifies a probable toxicant and/or a probable source of toxicity the permittee shall submit, as part of its final results written notification of that effect to the Director. Within thirty (30) days of completing the PTI the permittee shall submit for approval a control program to control effluent toxicity and shall proceed to implement such a plan within seven (7) days following approval. The control program, as submitted to or revised by the Director, may be incorporated into the permit.
- (3) 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.C.3.e., Toxicity Reduction Evaluation*).
- (4) 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 a. of this section.

f. *Toxicity Reduction Evaluation (TRE).* If toxicity is detected during the life of this permit 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 to establish the cause of toxicity, locate the source(s) of the toxicity, and control or provide treatment for the toxicity.

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

- (1) Phase I – Toxicity Characterization
- (2) Phase II – Toxicity Identification Procedures
- (3) Phase III – Toxicity Control Procedures
- (4) Any other appropriate procedures for toxicity source elimination and control.

If the TRE establishes that the toxicity cannot be immediately eliminated, the permittee shall submit a proposed compliance plan to the 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.

- D. Reporting of Discharge Monitoring Results. Monitoring results obtained during the previous month shall be summarized for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), post-marked no later than the 28th day of the month following the completed reporting period. The first report is due on **Month 28, 20--**. 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 and the annual Project Operating Report required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part VII.G)*, and submitted to the Division of Water Quality at the following address:

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

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.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10*, unless other test procedures have been specified in this permit.
- C. Penalties for Tampering. The *Act* provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- D. Reporting of Monitoring Results. Monitoring results obtained during the previous month shall be summarized for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), post-marked no later than the 28th day of the month following the completed reporting period. The first report is due on **Month 28, Year**. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part V.G)*, and submitted to the Director, Division of Water Quality and to EPA at the following addresses:

Original to: Department of Environmental Quality
Division of Water Quality
195 North 1950 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 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 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) 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 which may endanger health or the environment;
 - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See *Part IV.G, Bypass of Treatment Facilities.*);
 - c. Any upset which exceeds any effluent limitation in the permit (See *Part IV.H, Upset Conditions.*); or,
 - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit.
3. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected;

- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance;
 - e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
4. The 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*.
- 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.1.3*.
- 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.

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 Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions. The Act provides that any person who violates a permit condition implementing provisions of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions of the Act is subject to a fine not exceeding \$25,000 per day of violation; Any person convicted under UCA 19-5-115(2) a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at Part IV.G, Bypass of Treatment Facilities and Part IV.H, Upset Conditions, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.
- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. Removed Substances. Collected screening, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not directly enter either the final effluent or waters of the state by any other direct route.
- G. Bypass of Treatment Facilities.
1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to 2. and 3. of this section.

2. Prohibition of Bypass.

- a. Bypass is prohibited, and the 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 section 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 sections G.2a. (1), (2) and (3).

3. Notice.

- a. Anticipated bypass. Except as provided above in section G.2. and below in section G. 3.b, if the permittee knows in advance of the need for a bypass, it shall submit prior notice, at least ninety days before the date of bypass. The prior notice shall include the following unless otherwise waived by the 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 section G.3.a.(1) through (6) to the extent practicable.
 - c. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass to the Director as required under Part III.I., Twenty Four Hour Reporting. The permittee shall also immediately notify the Director of the Department of Natural Resources, the public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

H. Upset Conditions.

- 1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph 2. of this section are met. 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.

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 which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 ug/L);
 - b. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/L) for 2, 4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.5(7)* or (10); or,
 - d. The level established by the 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 ug/L);
 - b. One milligram per liter (1 mg/L) for antimony;
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.5(9)*; or,
 - d. The level established by the 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 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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IV. 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 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 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 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 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 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 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 paragraph V.G.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph V.G.2 must be submitted to the 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 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 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 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 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 paragraph 2 above.
- N. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by *UCA 19-5-117*.
- O. Water Quality-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:
1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
 2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.
 3. A revision to the current Water Quality Management Plan is approved and adopted which calls for different effluent limitations than contained in this permit.

- P. Toxicity Limitation-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity (WET) testing, a WET limitation, a compliance schedule, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is detected during the life of this permit.
- Q. Storm Water-Reopener Provision. At any time during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *UAC R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to “waters-of-the-State”.