

Permit No.: ID-002495-3
Application No.: ID-002495-3

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et seq.*, as amended by the Water Quality Act of 1987, P.L. 100-4, the "CWA",

Darigold Inc.
520 Albany Street
Caldwell, Idaho 83606

is authorized to discharge from its milk processing plant located in Caldwell, Idaho, Canyon County at approximately latitude 43E 40' 40", and longitude 116E 41' 51" to receiving waters named the Boise River, in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective November 2, 1999

This permit and the authorization to discharge shall expire at midnight, November 2, 2004

Signed this 30th day of September, 1999

/s/ Randy Smith

Director

Office of Water, Region 10

U.S. Environmental Protection Agency

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Table 1 - Effluent Limitations and Monitoring Requirements 4

I. LIMITATIONS AND MONITORING REQUIREMENTS

During the effective period of this permit, the permittee is authorized to discharge from outfall 001 to the Boise River, subject to the restrictions set forth herein. This permit does not authorize the discharge of any waste streams, including spills and other unintentional or non-routine discharges of pollutants, that are not part of the normal operation of the facility as disclosed in the permit application, or any pollutants that are not ordinarily present in such waste streams.

A. Effluent Limitations and Monitoring

1. The pH shall not be less than 6.5 standard units nor greater than 9.5 standard units.
2. Surface waters shall be free from toxic substances in concentrations that impair designated beneficial uses.
3. The permittee shall limit and monitor discharges from outfall 001 as specified in Table 1 below. All figures represent maximum effluent limits. The permittee shall comply with the following effluent limits at all times unless otherwise indicated, regardless of the frequency of monitoring or reporting required by other provisions of this permit.

Table 1 - Effluent Limitations and Monitoring Requirements					
Parameter	Effluent Limitations			Monitoring Requirements	
	Instant Max	Max Daily	Ave Monthly	Sample Frequency	Sample Type
Temperature, °C ¹	22	19	—	Cont	Record
Effluent Flow, mgd	—	1.7	—	Cont	Record
Total Ammonia as N, mg/L	—	—	—	1/week	24 hour composite
Five-day Biochemical Oxygen Demand, mg/L ²	—	—	30	1/week	24 hour composite

Table 1 - Effluent Limitations and Monitoring Requirements					
Parameter	Effluent Limitations			Monitoring Requirements	
	Instant Max	Max Daily	Ave Monthly	Sample Frequency	Sample Type
Total Suspended Solids, mg/L	—	—	30	1/week	24 hour composite
Footnotes:					
1 Beginning on the effective date of this permit, the permittee shall monitor for temperature. The permittee shall comply with the temperature limitations on or before the last day of the permit term.					
2 Beginning on the effective date of this permit, the permittee shall monitor for five-day Biochemical Oxygen Demand (BOD ₅). The permittee shall comply with the BOD limitation, one year from the effective date of the permit.					

B. Quality Assurance Plan (QAP)

The permittee shall develop a quality assurance plan (QAP) for all monitoring required by this permit. The plan shall be developed and implemented within 120 days of the effective date of this permit.

1. The QAP shall be designed to assist in planning for the collection and analysis of environmental samples in support of the permit and in explaining data anomalies when they occur.
2. Throughout all sample collection and analysis activities, the permittee shall use the EPA-approved QA/QC and chain-of-custody procedures described in *Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). The QAP shall be prepared in the format which is specified in these documents.
3. The QAP shall include the following:
 - a. Details on the number of samples, detailed sampling locations, type of sample containers, preservation of samples, holding times, analytical detection and quantitation limits for each target compound, analytical methods, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.

- b. A map indicating the location of each monitoring point.
 - c. Qualification and training of personnel.
 - d. Specifications for the collection and analysis of quality assurance samples for each sampling event, including matrix spiked and duplicate samples and analysis of field transfer blanks (sample blanks).
 - e. Name(s), address(es) and telephone number(s) of the laboratories, used by or proposed to be used by the permittee.
- 4. The permittee shall amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP.
 - 5. Copies of the QAP shall be kept on site and made available to EPA and/or Idaho Division of Environmental Quality (IDEQ) upon request.

II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. **Representative Sampling.** The permittee shall collect all effluent samples 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. **Reporting of Monitoring Results.** The permittee shall summarize monitoring results each quarter on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1). The permittee shall submit reports postmarked by the 10th of January, April, July, and October containing the previous three months of data. The permittee shall sign and certify all DMRs, and all other reports, in accordance with the requirements of Part IV.E. of this permit ("Signatory Requirements"). The permittee shall submit the legible originals of these documents to the Director, Office of Water, with copies to IDEQ at the following addresses:

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue, OW-133
Seattle, Washington 98101

Idaho Division of Environmental Quality
1445 North Orchard Street
Boise, Idaho 83706-2239

- C. Monitoring Procedures.** Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures have been specified in this permit.
- D. Additional Monitoring by Permittee.** If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the permittee shall include the results of this monitoring in the calculation and reporting of the data submitted in the DMR. The permittee shall indicate on the DMR whenever it has performed additional monitoring, and shall explain why it performed such monitoring.

Upon request by the Director, the permittee shall submit results of any other sampling, regardless of the test method used.

- E. Records Contents.** All effluent monitoring records shall bear the handwritten signature of the person who prepared them. In addition, all records of monitoring information shall include:
1. the date, exact place, and time of sampling or measurements;
 2. the names of the individual(s) who performed the sampling or measurements;
 3. the date(s) analyses were performed;
 4. the names of the individual(s) who performed the analyses;
 5. the analytical techniques or methods used; and
 6. the results of such analyses.
- F. Compliance Reporting.** The permittee shall submit by January 1 of each year until five years from the effective date of the permit, the progress the facility has made toward compliance with the state's water quality standard for temperature.
- G. Retention of Records.** The permittee shall retain records of all monitoring information, including, but not limited to, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of DMRs, a copy of the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or

application, or for the term of this permit, whichever is longer. This period may be extended by request of the Director or IDEQ at any time.

H. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee shall report the following occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances:
 - a. any unanticipated bypass that results in or contributes to an exceedence of any effluent limitation in the permit (See Part III.G., "Bypass of Treatment Facilities");
 - b. any upset that results in or contributes to an exceedence of any effluent limitation in the permit (See Part III.H., "Upset Conditions"); or
 - c. any violation of a maximum daily discharge limitation in Table 1 for any of the pollutants listed in the permit.
2. The permittee shall also provide a written submission within five days of the time that the permittee becomes aware of any event required to be reported under subpart 1 above. 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 recurrence of the noncompliance; and
 - e. the results of any monitoring data required under Paragraph II.A, "Representative Sampling."
3. The Director may, at his sole discretion, waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Hotline in Seattle, Washington, by telephone, (206) 553-1846.

4. Reports shall be submitted to the addresses in Part II.B ("Reporting of Monitoring Results").

I. Other Noncompliance Reporting. The permittee shall report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Part II.B ("Reporting of Monitoring Results") are submitted. The reports shall contain the information listed in Part II.G.2 of this permit ("Twenty-four Hour Notice of Noncompliance Reporting").

J. Changes in Discharge of Toxic Substances. The permittee shall notify the Director and IDEQ as soon as it knows, 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 that is not limited in the permit, if that discharge may reasonably be expected to 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 40 CFR 122.21(g)(7); or
 - d. The level established by the Director in accordance with 40 CFR 122.44(f).
2. That any activity has occurred or will occur that would result in any discharge, on a non-routine or infrequent basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to 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 40 CFR 122.21(g)(7); or
- d. The level established by the Director in accordance with 40 CFR 122.44(f).

III. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application.

B. Penalties for Violations of Permit Conditions

1. **Civil and Administrative Penalties.** Any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA shall be subject to a civil or administrative penalty, not to exceed the maximum amounts authorized by Sections 309(d) and 309(g) of the CWA and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note).
2. **Criminal Penalties:**
 - a. **Negligent Violations.** Any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA shall, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(1) of the CWA.
 - b. **Knowing Violations.** Any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA shall, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(2) of the CWA.
 - c. **Knowing Endangerment.** Any person who knowingly violates a permit condition implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the CWA, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine and/or imprisonment as specified in Section 309(c)(3) of the CWA.

- d. **False Statements.** Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this CWA or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this CWA, shall, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(4) of the CWA.

Except as provided in permit conditions in Part III.G, ("Bypass of Treatment Facilities") and Part III.H, ("Upset Conditions"), nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

- C. Need to Halt or Reduce Activity not a Defense.** It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with 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) that 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 appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. Removed Substances.** Solids, sludges, or other pollutants removed in the course of treatment or control of water and wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters, except as specifically authorized in Part I.A.
- G. Bypass of Treatment Facilities**
 - 1. **Bypass not exceeding limitations.** The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this Part.

2. Notice.

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.
- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.G ("Twenty-four Hour Notice of Noncompliance Reporting").

3. Prohibition of bypass.

- a. Bypass is prohibited, and the Director or IDEQ may take enforcement action against the permittee for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment shall have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The permittee submitted notices as required under paragraph 2 of this Part.
- b. The Director and IDEQ may approve an anticipated bypass, after considering its adverse effects, if the Director and IDEQ determine that it will meet the three conditions listed above in paragraph 3.a. of this Part.

H. Upset Conditions

- 1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the permittee meets the requirements of paragraph 2 of this Part. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. Conditions necessary for a demonstration of upset. To establish the affirmative defense of upset, the permittee shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under Part II.G, "Twenty-four Hour Notice of Noncompliance Reporting;" and
 - d. The permittee complied with any remedial measures required under Part III.D, "Duty to Mitigate."
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

I. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA 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. Planned Changes. The permittee shall give notice to the Director and IDEQ as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements under Part II.I ("Changes in Discharge of Toxic Substances").

The permittee shall give notice to the Director and IDEQ as soon as possible of any planned changes in process or chemical use whenever such change could significantly change the nature or increase the quantity of pollutants discharged.

- K. Anticipated Noncompliance.** The permittee shall also give advance notice to the Director and IDEQ of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

IV. GENERAL PROVISIONS

- A. 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.
- B. Duty to Reapply.** If the permittee intends to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.
- C. Duty to Provide Information.** The permittee shall furnish to the Director and IDEQ, within the time specified in the request, any information that the Director or IDEQ 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 or IDEQ, upon request, copies of records required to be kept by this permit.
- D. Other Information.** When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to the Director or IDEQ, it shall promptly submit the omitted facts or corrected information.
- E. Signatory Requirements.** All applications, reports or information submitted to the Director and IDEQ shall be signed and certified.
1. All permit applications shall be signed as follows:
 - a. For a corporation: by a responsible corporate officer.
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
 - c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Director or IDEQ 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 IDEQ, and
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company.
3. Changes to authorization. If an authorization under Part IV.E.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph IV.E.2. must be submitted to the Regional Administrator and IDEQ 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 Part 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."

- F. Availability of Reports.** Except for data determined to be confidential under 40 CFR 2, all reports prepared in accordance with this permit shall be available for public inspection at the offices of the Director and IDEQ. As required by the CWA, permit applications, permits and effluent data shall not be considered confidential.

- G. Inspection and Entry.** The permittee shall allow the Director, IDEQ, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), 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 this 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 CWA, any substances or parameters at any location.
- H. Oil and Hazardous Substance Liability.** 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 to which the permittee is or may be subject under Section 311 of the CWA.
- I. 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.
- J. Severability.** The provisions of this permit are severable. 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.
- K. Transfers.** This permit may be automatically transferred to a new permittee if:
1. The current permittee notifies the Director at least 30 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 the notice described in paragraph 3 above is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

L. 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 Section 510 of the CWA.

M. Reopener Clause. This permit is subject to modification, revocation and reissuance, or termination at the request of any interested person (including the permittee) or upon EPA initiative. However, permits may only be modified, revoked or reissued, or terminated for the reasons specified in 40 CFR 122.62 or 122.64, and 40 CFR 124.5. This includes new information which was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance. All requests for permit modification must be addressed to EPA in writing and shall contain facts or reasons supporting the request.

V. DEFINITIONS

1. "Administrator" means the Administrator of the EPA, or an authorized representative.
2. "Average monthly" See monthly average.
3. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
4. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

5. "Daily maximum". See Maximum daily limitation.
6. "Director" means the Director of the Office of Water, EPA, or an authorized representative.
7. "DMR" means discharge monitoring report.
8. "EPA" means the United States Environmental Protection Agency.
9. "Grab" sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.
10. "Maximum daily discharge limitation" means the highest allowable "daily discharge."
11. "Monthly average" means the average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
12. "QA/QC" means quality assurance/quality control.
13. "Regional Administrator" means the EPA Region 10 Regional Administrator, or an authorized representative.
14. "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.
15. "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.
16. "Waste stream" means any non-de minimus stream of pollutants within the permittee's facility that enters any permitted outfall or navigable waters. This includes spills and other unintentional, non-routine or unanticipated discharges.