



Oregon

Theodore Kulongoski, Governor

Department of Environmental Quality

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July 19, 2004

Laura Hicks
U.S. Army Corps of Engineers
PO Box 2946
Portland, Oregon 97208-2946

Re: Storm Water Control Permit
ORR10-8889
File No. 113119
Site: North Jetty Revetment & Jetty Maintenance, Garibaldi
Tillamook County

The Department of Environmental Quality has received your application for National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit #1200-C, and the required application fees. We are issuing the requested permit.

Please review your permit carefully. The permit prohibits visible or measurable quantities of sediments from leaving the construction site (see Schedule A, Page 2, Item 1), and requires that erosion control measures be inspected regularly by the permittee (Schedule B, Page 8, Item 7) and records of these inspections kept on site. Please be aware that if petroleum separator/trap devices are in use at your site, it is the responsibility of the owner of the property to properly maintain them.

All on-site erosion control measures must remain in place through the duration of construction.

For phased developments, an erosion control plan for any phases not submitted with your original application must be submitted to this office (Attention: Dennis Jurries) 30 days prior to commencement of construction activities. The plan(s) will be reviewed, and if acceptable, will be approved in writing by the Department.

In addition, if, during project development, legal responsibility shifts from the present permittee to another party, this permit must be transferred to the new responsible party. There is a \$50 filing fee associated with permit transfer, as well as a one page application that must be submitted to DEQ.

Please notify this office through the use of the Permit Termination Request Form (*Notice of Termination Form*) when your construction activity is completed and a permit is no longer needed. If a notification is not received, you will be billed an annual compliance determination fee for each additional year this permit remains in effect.

Termination of a General Construction NPDES Storm Water Discharge Permit



(1) The purpose of the Construction Storm Water Discharge Permit is to prevent violations of the State Water Quality Standards and minimize adverse impacts to the environment. In keeping with this intent, the Department has determined that a permit may be terminated when the site can reasonably be expected to not add or contribute to water quality violations.

(2) Construction Storm Water Discharge Permit may be terminated when:

(a) The utilities, roads, and initial grading are complete provided the permittee is selling the site as individual home lots and temporary seeding has occurred and the vegetation is growing, i.e. no exposed soil is present; or

Note: Should the permittee sell a block of contiguous lots to another developer for building construction and the block equals or exceeds the minimum size requirement for obtaining a permit, the existing permit may be transferred to the new developer. The new developer would have to provide future erosion and/or sediment control and maintenance for the block of lots that they own and may request permit termination when the soil is stabilized, i.e. all landscaping is complete and the vegetation is growing (no bare soil is present) on those lots.

(b) If the permittee is constructing the buildings, all of the buildings must be complete and the site stabilized, i.e. landscaped and the vegetation growing, - no exposed soil is present; and

(c) Temporary erosion and/or sediment controls have been removed and properly disposed.

This permit does not authorize excavation or fill in state waterways, including wetlands, and does not replace the requirement for receiving authorization to do this type of work under Section 404 of the Clean Water Act.

If you have any questions about the permit, please me at (503) 229-5937.

Thank you for your attention to this matter.

Sincerely,



Dennis Jurries, PE
Stormwater Engineer
Northwest Region

DJ
Enclosure
cc: File

**GENERAL PERMIT
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
STORM WATER DISCHARGE PERMIT**

Oregon Department of Environmental Quality
811 SW Sixth Avenue, Portland 97204, (503) 229-5279
Issued pursuant to ORS 468B.050 and The Federal Clean Water Act

ISSUED TO: 7/19/04 GEN 12C TILLAMOOK/NWR
File No. 113119 ORR10-8889

U.S. Army Corps of Engineers
PO Box 2946
Portland, Oregon 97208-2946

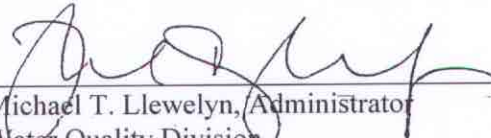
Site: North Jetty Revetment & Jetty Maintenance, Garibaldi, OR

SOURCES COVERED BY THIS PERMIT:

Construction activities including clearing, grading, excavation, and stockpiling activities that will result in the disturbance of five or more acres. Also included are activities that disturb a total of five or more acres if part of a larger common plan of development.

Effective December 1, 2002 the previously described construction activities will include land disturbance of one acre or more, and will also include activities that disturb a total of one or more acres if part of a larger common plan of development. Two waivers from this permit can apply at projects of one to five acres where the operator certifies that a site has a rainfall erosivity factor less than five or when an approved total maximum daily load or equivalent analysis determines that allocations for construction activities for the pollutants of concern are not needed to protect water quality. [40 CRF 122.26 (b)(15)(i)(A)(B)]

This permit does not authorize in-water or riparian work. These activities are regulated by the Oregon Division of State Lands, US Army Corp of Engineers, and/or the DEQ Section 401 certification program.



Michael T. Llewelyn, Administrator
Water Quality Division

2/20/2001

Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate erosion and sediment control measures, and storm water treatment and control facilities, and to discharge storm water to public waters in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

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Unless specifically authorized by this permit, by another NPDES or WPCF permit, or by Oregon Administrative Rule, any other direct or indirect discharge to waters of the state is prohibited, including discharges to an underground injection control system.

SCHEDULE A
LIMITATIONS AND CONTROLS FOR STORM WATER DISCHARGES

1. **Performance Limitations** An Erosion and Sediment Control Plan (ESCP) shall be developed and implemented to prevent the discharge of significant amounts of sediment to surface waters. The following conditions describe significant amounts of sediment and shall be prevented from occurring.
 - a. Earth slides or mud flows that leave the construction site and are likely to discharge to surface waters.
 - b. Evidence of concentrated flows* of water causing erosion when such flows are not filtered or settled to remove sediment prior to leaving the construction site and are likely to discharge to surface waters. Evidence includes the presence of rills, rivulets or channels.
 - c. Turbid flows* of water that are not filtered or settled to remove turbidity prior to leaving the construction site and are likely to discharge to surface waters.
 - d. Deposits of sediment at the construction site in areas that drain to unprotected storm water inlets or catch basins that discharge to surface waters. Inlets and catch basins with failing sediment controls due to lack of maintenance or inadequate design will be considered unprotected.
 - e. Deposits of sediment from the construction site on public or private streets outside of the permitted construction activity that are likely to discharge to surface waters.
 - f. Deposits of sediment from the construction site on any adjacent property outside of the permitted construction activity that are likely to discharge to surface waters.

* Flow to storm water inlets or catch basins located on the site will be considered "leaving the site" if there are no sediment control structures designed for expected construction flows downstream of the inlets or catch basins that are under the permittee's control.

2. **Erosion and Sediment Control Plan Preparation and Submittal** The permittee shall ensure that a comprehensive ESCP is prepared and implemented for the construction activity regulated by this permit.
 - a. For construction activities disturbing 20 or more acres, the ESCP shall be prepared and stamped by an Oregon Registered Professional Engineer, Oregon Registered Landscape Architect, or Certified Professional in Erosion and Sediment Control (Soil and Water Conservation Society)
 - b. If engineered facilities such as sedimentation basins or diversion structures for erosion and sediment control are required, the ESCP shall be prepared and stamped by an Oregon Registered Professional Engineer.
 - c. The ESCP shall be submitted to the Department of Environmental Quality (Department) and/or its authorized agent (Agent) for approval. An ESCP approved prior to February 15, 2001 is not required to be resubmitted to the Department or its Agent.
 - d. Prior to beginning clearing, grading, excavation, or construction, the ESCP shall be approved by the Department or its Agent. If the Department has not commented on the ESCP within 30 days of receipt, the ESCP shall be approved by default. If the ESCP is required to be submitted to the Department's Agent, the permittee shall follow the schedule set forth by the Agent. The

Department or its Agent's approval of the ESCP does not constitute compliance with this permit. The permittee shall be responsible for complying with all permit conditions.

- e. A copy of the ESCP shall be retained on-site and made available to the Department, its Agent, or the local municipality upon request. During inactive periods of greater than seven (7) consecutive calendar days, the ESCP shall be retained by the permittee.
 - f. The Department or its Agent may request modifications to the ESCP at any time if the ESCP is ineffective at preventing the discharge of significant amounts of sediment and turbidity to surface waters.
 - g. The ESCP shall include any procedures necessary to meet local erosion and sediment control requirements or storm water management requirements.
 - h. If possible, during the period of October through May, construction activities should avoid or minimize excavation and bare ground activities. If the operator chooses to continue land disturbance activities within this period, additional wet weather requirements (refer to A.3.d) are required in the ESCP. Specifically, if construction activity occurs during the winter season where slopes are greater than five (5) percent and the soils have medium to high erosion potential additional erosion controls will be required.
 - i. The following non-storm water discharges are allowed as long as they are identified in the ESCP and all necessary controls are implemented to minimize sediment transport. These include: firefighting activity, hydrant flushing and potable waterline flushing (refer to DEQ guidance), air conditioning condensate, dewatering activities of uncontaminated groundwater or spring water, and uncontaminated foundation or footer drain water.
3. **Erosion and Sediment Control Plan Requirements** The ESCP shall, at a minimum, include the following elements.
- a. Site Description A description of the following:
 - i. Nature of the construction activity, including a proposed timetable for major activities.
 - ii. Estimates of the total area of the permitted site and the area of the site that is expected to undergo clearing, grading and/or excavation.
 - iii. Nature of the fill material to be used, the insitu soils, and the erosion potential of such soils.
 - iv. Names of the receiving water(s) for storm water runoff.
 - b. Site Map Indicating the following: (Note: In order to provide all the required information, a general location map in addition to the site map is required.)
 - i. Areas of total development
 - ii. Drainage patterns
 - iii. Areas of total soil disturbance (including, but not limited to, showing cut and fill areas and pre and post development elevation contours)
 - iv. Areas used for the storage of soils or wastes
 - v. Areas where vegetative practices are to be implemented. Include type of vegetation seed mix.
 - vi. Location of all erosion and sediment control measures or structures
 - vii. Location of impervious structures after construction is completed. Include buildings, roads, parking lots, outdoor storage areas, etc., if any.
 - viii. Springs, wetlands and other surface waters located on-site
 - ix. Boundaries of the 100-year flood plain if determined
 - x. Location of storm drainage outfalls to receiving water(s) if applicable

- xi. Location of drinking water wells and underground injection controls
 - xii. Details of sediment and erosion controls
 - xiii. Details of detention ponds, storm drain piping, inflow and outflow details
- c. Required Controls and Practices The following controls and practices are required:
- i. Each site shall have graveled, paved, or constructed entrances, exits and parking areas, prior to beginning any other work, to reduce the tracking of sediment onto public or private roads.
 - ii. All unpaved roads located on-site shall be graveled. Other effective erosion and sediment control measures either on the road or down gradient may be used in place of graveling.
 - iii. When trucking saturated soils from the site, either water-tight trucks shall be used or loads shall be drained on-site until dripping has been reduced to minimize spillage on roads.
 - iv. A description of procedures that describe controls to prevent the discharge of all wash water from concrete trucks.
 - v. A description of procedures for correct installation or use of all erosion and sediment control measures.
 - vi. A description of procedures for prompt maintenance or repair of erosion and sediment control measures utilized on-site (refer to A.4).
- d. Additional Controls and Practices Additional controls and practices shall be developed that are appropriate for the site. At a minimum the following shall be considered:
- i. A description of clearing and grading practices, including a schedule of implementation, that will minimize the area of exposed soil throughout the life of the project. Whenever practicable, clearing and grading shall be done in a phased manner to prevent exposed inactive areas from becoming a source of erosion.
 - ii. A description of vegetative erosion control practices, including a schedule of implementation, designed to preserve existing vegetation where practicable and re-vegetate open areas when practicable after grading or construction.

In developing vegetative erosion control practices, at a minimum the following shall be considered: temporary seeding, permanent seeding, mulching, sod stabilization, vegetative buffer strips, and protection of trees with protective construction fences.
 - iii. A description of additional erosion control practices, including a schedule of implementation, designed to protect exposed areas and prevent soil from being eroded by storm water.

In developing additional erosion control practices, at a minimum the following shall be considered: mulching with straw or other vegetation, use of erosion control blankets, and application of soil tackifiers.
 - iv. A description of sediment control practices, including a schedule of implementation, that will be used to divert flows from exposed soil, store flows to allow for sedimentation, filter flows, or otherwise reduce soil laden runoff. All temporary sediment control practices shall not be removed until permanent vegetation or other cover of exposed areas is established.

In developing sediment control practices, at a minimum the following shall be considered: use of silt fences, earth dikes, brush barriers, drainage swales, check dams, subsurface drains, pipe slope drains, rock outlet protection, sediment traps, and temporary or permanent sedimentation basins.

- v. A description of erosion and sediment control practices that will be used to prevent stockpiles from becoming a source of erosion. Stockpiles located away from the construction activity but still under the control of the permittee shall also be protected to prevent significant amounts of sediment from discharging to surface waters. At the end of each workday the soil stockpiles must be stabilized or covered.

In developing these practices, at a minimum the following shall be considered: diversion of uncontaminated flows around stockpiles, use of cover over stockpiles, and installation of silt fences around stockpiles.

- vi. A description of the best management practices that will be used to prevent or minimize storm water from being exposed to pollutants from spills, cleaning and maintenance activities, and waste handling activities. These pollutants include fuel, hydraulic fluid, and other oils from vehicles and machinery, as well as debris, leftover paints, solvents, and glues from construction operations. The reuse and recycling of construction wastes should be promoted.

In developing these practices, at a minimum the following shall be considered: written spill prevention and response procedures; employee training on spill prevention and proper disposal procedures; regular maintenance schedule for vehicles and machinery; and covered storage areas for waste and supplies.

4. Maintenance Requirements The following maintenance activities shall be implemented.

- a. Significant amounts of sediment that leave the site shall be cleaned up within 24 hours and placed back on the site or properly disposed. Any in-stream clean up of sediment shall be preformed according to Oregon Division of State Lands' required timeframe.
- b. Under no conditions shall sediment intentionally be washed into storm sewers or drainageways unless it is captured by a BMP before entering receiving waters.
- c. For a filter fence, the trapped sediment shall be removed before it reaches one third of the above ground fence height.
- d. For catch basin protection, cleaning must occur when design capacity has been reduced by fifty percent.
- e. For a sediment basin, removal of trapped sediments shall occur when design capacity has been reduced by fifty percent.
- f. All erosion and sediment controls not in the direct path of work shall be installed before any land disturbance.
- g. If fertilizers are used to establish vegetation, the application rates shall follow manufacturer's guidelines and the application shall be done in such a way to minimize nutrient-laden runoff to receiving waters.
- h. If construction activities cease for thirty (30) days or more, the entire site must be stabilized, using vegetation or a heavy mulch layer, temporary seeding, or another method that does not require germination to control erosion.

- i. Any use of toxic or other hazardous materials shall include proper storage, application, and disposal.
- j. The permittee shall manage abandoned hazardous wastes, used oils, contaminated soils or other toxic substances discovered during construction activities in a manner approved by the Department.
- k. If a storm water treatment system for construction activities is employed, an operation and maintenance plan shall be submitted to the Department for approval.

5. Additional Requirements

a. Water Quality Standards:

The ultimate goal for permittees is to comply with water quality standards in OAR 340-41. In instances where a storm water discharge adversely impacts water quality, the Department may require the facility to implement additional management practices, apply for an individual permit, or take other appropriate action.

b. Turbidity (Nephelometric Turbidity Units, NTU) Water Quality Standard:

No more than a ten percent cumulative increase in natural stream turbidities shall be allowed, as measured relative to a control point immediately upstream of the turbidity causing activity. However, limited duration activities necessary to address an emergency or to accommodate essential dredging, construction or other legitimate activities and which cause the standard to be exceeded may be authorized provided all practicable turbidity control techniques have been applied and one of the following has been granted:

(A) Emergency activities: Approval coordinated by DEQ with the Department of Fish and Wildlife under conditions they may prescribe to accommodate response to emergencies or to protect public health and welfare;

(B) Dredging, Construction or other Legitimate Activities: Permit or certification authorized under terms of Section 401 or 404 (Permits and Licenses, Federal Water Pollution Control Act) or OAR 141-085-0100 et seq. (Removal and Fill Permits, Division of State Lands), with limitations and conditions governing the activity set forth in the permit or certificate.

[see OAR 340-041-(basin)(2)(c)]

c. Water Quality Limited Streams:

The Department may establish additional controls on construction activities that discharge storm water runoff to water quality limited streams if Total Maximum Daily Loads are established and construction activities are determined to be a significant contributor to these loads. The Department may also require application for individual permit or develop a watershed-based general permit for the activity.

6. **Required Actions Prior to Termination of the Permit** The following actions shall be completed before permit coverage is terminated.
- a. There is no potential for discharge of a significant amount of construction related sediment to surface waters.
 - b. All elements of the ESCP have been completed.
 - c. Construction materials, waste, and temporary erosion and sediment controls have been removed and disposed of properly. This includes any sediment that was being retained by the temporary erosion and sediment controls.
 - d. All disturbed areas of the site must be stabilized.
 - e. Submittal of DEQ Notice of Termination Form.

SCHEDULE B
MINIMUM MONITORING REQUIREMENTS

All Sites

1. A person with knowledge and experience in construction storm water controls and management practices shall conduct the inspections. The ESCP shall identify the person(s) and/or title of the personnel that will conduct the inspections and provide a contact phone number for such person(s).

Active Sites

2. Frequency of inspections shall be daily during storm water runoff or snowmelt runoff and at least once every seven (7) calendar days and within 24 hours after any storm event of greater than 0.5 inches of rain per 24-hour period.

Inactive Sites

3. During inactive periods of greater than seven (7) consecutive calendar days, inspections shall only be required once every two (2) weeks.
4. Prior to discontinuing activities at the site, any exposed area shall be stabilized to prevent erosion. Stabilization may occur by applying appropriate cover (mulch, erosion control blanket, soil tackifier, etc.) or establishing adequate vegetative cover.
5. When a site is inaccessible due to adverse weather conditions, inspections shall not be required. Adverse weather condition shall be recorded on the inspection sheet.
6. Prior to leaving an inactive site or in anticipation of site inaccessibility, existing erosion and sediment control measures shall be inspected to ensure that they are in working order. Any necessary maintenance or repair shall be made prior to leaving the site.

Written Records

7. All visual inspections must document the following information:
 - a. Inspection date, inspector's name, weather conditions, and rainfall amount for past 24 hours (inches). (Rainfall information can be obtained from the nearest weather recording station.)
 - b. List observations of all BMPs: erosion and sediment controls, chemical and waste controls, locations where vehicles enter and exit the site, status of areas that employ temporary or final stabilization control, soil stockpile area, and nonstormwater controls.
 - c. At representative discharge location(s) from the construction site conduct observation and document the quality of the discharge for any turbidity, color, sheen, or floating materials. If possible, in the receiving stream, observe and record color and turbidity or clarity upstream and downstream within 30 feet of the discharge from the site. For example, a sheen or floating material could be noted as present/absent, if observation is yes, it could indicate concern about a possible spill and/or leakage from vehicles or materials storage. For turbidity and color an observation would describe any apparent color and the clarity of the discharge, and any apparent difference in comparison with the receiving stream.

- d. If significant amounts of sediment are leaving the property, briefly explain the corrective measures taken to reduce the discharge and/or clean it up and describe efforts to prevent future releases. The ESCP shall be amended accordingly.
 - e. If a site is inaccessible due to inclement weather the inspection shall include observations at a relevant discharge point or downstream location, if practical.
8. All inspection records for an active site shall be kept on-site or be maintained with the permittee, and shall made available to the Department, its Agent, or local municipality upon request.
 9. A written record of inspections for an inactive site shall be maintained with the permittee and made available to the Department, its Agent, or local municipality upon request.
 10. Retention of all inspection records shall be for a period of one year from project completion.

SCHEDULE C
COMPLIANCE SCHEDULE

1. Registration of Underground Injection Systems (40 CFR 144 and OAR 340-044). The permittee shall submit to DEQ a registration form if construction activities include disposal of storm water or other wastewater discharges to an injection system. These types of disposal systems are classified under the Underground Injection Control Program as a Class V well, require registration, and must meet Division 44 standards.
 - a. A new permittee shall register any applicable underground treatment systems **prior to** the construction of a new facility.
 - b. For facilities covered by the previous 1200-C permit, the registration form is due within **thirty (30) days** after receipt of this new 1200-C permit.

SCHEDULE D
SPECIAL CONDITIONS

1. Issuance of this permit does not relieve the permittee from all other permitting and licensing requirements. Prior to beginning construction activities, all other necessary approvals shall be obtained.
2. The permit will remain in effect after the expiration date or until another permit is issued if the permittee has paid all fees and has filed a renewal application.
3. Any permittee that does not want to be covered or limited by this general permit may make application for an individual NPDES permit in accordance with the procedures in OAR 340-45-030.
4. Permit Specific Definitions:

Best Management Practices (BMPs) Schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural and/or managerial practices to prevent or reduce the pollution of waters of the state. BMPs include treatment systems, erosion and sediment control, source control, and operating procedures and practices to control: site runoff, spillage or leaks, and waste disposal.

Dewatering The removal and disposal of surface water or groundwater for purposes of preparing a site for construction.

Erosion The movement of soil particles resulting from the tracking, flow or pressure from storm water or wind.

Grade Construction activity that causes the disturbance of the earth. This shall include but not be limited to any excavating, filling, stockpiling of earth materials, grubbing, root mat or topsoil disturbance, or any combination of them.

Hazardous Materials As defined in 40 CFR 302 Designation, Reportable Quantities, and Notification. Available on the web at <http://www.epa.gov>.

Phasing Clearing a parcel of land in distinct phases, with the stabilization of each phase before clearing of the next phase; including soil stockpiling.

Stabilization The completion of all soil disturbance activities at the site and the establishment of a permanent vegetative cover, or equivalent permanent stabilization measures (such as riprap, gabions, geotextiles, or bioengineering methods) that will prevent erosion.

Start of Construction The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, excavation, and filling; installation of streets and walkways; erection of temporary forms; and installation of accessory buildings such as garages.

Storm Water Storm water runoff, snow melt runoff, and surface runoff associated with a storm event.

Turbidity An expression of the optical property of a sample which causes light to be scattered and absorbed rather than transmitted in a straight line through the sample. It is caused by the presence of suspended matter in a liquid.

SCHEDULE F
NPDES GENERAL CONDITIONS

SECTION A. STANDARD CONDITIONS

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of Oregon Revised Statutes (ORS) 468B.025 and is grounds for enforcement action; for permit termination, suspension, or modification; or for denial of a permit renewal application.

2. Penalties for Water Pollution and Permit Condition Violations

Oregon Law (ORS 468.140) allows the Director to impose civil penalties up to \$10,000 per day for violation of a term, condition, or requirement of a permit.

Under ORS 468.943, unlawful water pollution, if committed by a person with criminal negligence, is punishable by a fine of up to \$25,000 or by imprisonment for not more than one year, or by both. Each day on which a violation occurs or continues is a separately punishable offense.

Under ORS 468.946, a person who knowingly discharges, places or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape into the waters of the state, is subject to a Class B felony punishable by a fine not to exceed \$200,000 and up to 10 years in prison.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. In addition, upon request of the Department, the permittee shall correct any adverse impact on the environment or human health resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

4. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and have the permit renewed. The application shall be submitted at least 180 days before the expiration date of this permit.

The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date.

5. Permit Actions

This permit may be modified, suspended, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any term, condition, or requirement of this permit, a rule, or a statute;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all material facts; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of a request by the permittee for a permit modification or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Toxic Pollutants

The permittee shall comply with any applicable effluent standards or prohibitions established under Section 307(a) of the Clean Water Act 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.

7. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

8. Permit References

Except for effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act, all rules and statutes referred to in this permit are those in effect on the date this permit is issued.

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. 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 appropriate 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.

2. Duty to Halt or Reduce Activity

For industrial or commercial facilities, upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost. 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.

3. Bypass of Treatment Facilities

a. Definitions

- (1) "Bypass" means intentional diversion of waste streams from any portion of the treatment facility. The term "bypass" does not include nonuse of singular or multiple units or processes of a treatment works when the nonuse is insignificant to the quality and/or quantity of the effluent produced by the treatment works. The term "bypass" does not apply if the diversion does not cause effluent limitations to be exceeded, provided the diversion is to allow essential maintenance to assure efficient operation.
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities or treatment processes 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.

b. Prohibition of bypass.

(1) Bypass is prohibited unless:

- (a) Bypass was necessary to prevent loss of life, personal injury, or severe property damage;
 - (b) 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 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 preventative maintenance; and
 - (c) The permittee submitted notices and requests as required under General Condition B.3.c.
- (2) The Director may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when the Director determines that it will meet the three conditions listed above in General Condition B.3.b.(1).

c. Notice and request for bypass.

- (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior written notice, if possible at least ten days before the date of the bypass.
- (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in General Condition D.5.

4. Upset

a. Definition. "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 operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b. 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 requirements of General Condition B.4.c are met. 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.

c. 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:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated;
- (3) The permittee submitted notice of the upset as required in General Condition D.5, hereof (24-hour notice); and
- (4) The permittee complied with any remedial measures required under General Condition A.3 hereof.

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

5. Treatment of Single Operational Event

For purposes of this permit, A Single Operational Event which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation. A single operational event is an exceptional incident which causes simultaneous, unintentional, unknowing (not the result of a knowing act or omission), temporary noncompliance with more than one Clean Water Act effluent discharge pollutant parameter. A

single operational event does not include Clean Water Act violations involving discharge without a NPDES permit or noncompliance to the extent caused by improperly designed or inadequate treatment facilities. Each day of a single operational event is a violation.

6. Overflows from Wastewater Conveyance Systems and Associated Pump Stations

a. Definitions

- (1) "Overflow" means the diversion and discharge of waste streams from any portion of the wastewater conveyance system including pump stations, through a designed overflow device or structure, other than discharges to the wastewater treatment facility.
- (2) "Severe property damage" means substantial physical damage to property, damage to the conveyance system or pump station 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 an overflow.
- (3) "Uncontrolled overflow" means the diversion of waste streams other than through a designed overflow device or structure, for example to overflowing manholes or overflowing into residences, commercial establishments, or industries that may be connected to a conveyance system.

b. Prohibition of overflows. Overflows are prohibited unless:

- (1) Overflows were unavoidable to prevent an uncontrolled overflow, loss of life, personal injury, or severe property damage;
- (2) There were no feasible alternatives to the overflows, such as the use of auxiliary pumping or conveyance systems, or maximization of conveyance system storage; and
- (3) The overflows are the result of an upset as defined in General Condition B.4. and meeting all requirements of this condition.

c. Uncontrolled overflows are prohibited where wastewater is likely to escape or be carried into the waters of the State by any means.

d. Reporting required. Unless otherwise specified in writing by the Department, all overflows and uncontrolled overflows must be reported orally to the Department within 24 hours from the time the permittee becomes aware of the overflow. Reporting procedures are described in more detail in General Condition D.5.

7. Public Notification of Effluent Violation or Overflow

If effluent limitations specified in this permit are exceeded or an overflow occurs, upon request by the Department, the permittee shall take such steps as are necessary to alert the public about the extent and nature of the discharge. Such steps may include, but are not limited to, posting of the river at access points and other places, news releases, and paid announcements on radio and television.

8. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in such a manner as to prevent any pollutant from such materials from entering public waters, causing nuisance conditions, or creating a public health hazard.

SECTION C. MONITORING AND RECORDS

1. Inspection and Entry

The permittee shall allow the Director, or an authorized representative upon the presentation of credentials to:

- a. 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;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

SECTION D. REPORTING REQUIREMENTS

1. Planned Changes

The permittee shall comply with Oregon Administrative Rules (OAR) 340, Division 52, "Review of Plans and Specifications". Except where exempted under OAR 340-52, no construction, installation, or modification involving disposal systems, treatment works, sewerage systems, or common sewers shall be commenced until the plans and specifications are submitted to and approved by the Department. The permittee shall give notice to the Department as soon as possible of any planned physical alternations or additions to the permitted facility.

2. 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.

3. Transfers

This permit may be transferred to a new permittee provided the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and the rules of the Commission. No permit shall be transferred to a third party without prior written approval from the Director. The permittee shall notify the Department when a transfer of property interest takes place.

4. Compliance Schedule

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. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements.

5. Twenty-Four Hour Reporting

The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally (by telephone) within 24 hours, unless otherwise specified in this permit, from the time the permittee becomes aware of the circumstances. During normal business hours, the Department's Regional office shall be called. Outside of normal business hours, the Department shall be contacted at 1-800-452-0311 (Oregon Emergency Response System).

A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. If the permittee is establishing an affirmative defense of upset or bypass to any offense under ORS 468.922 to 468.946, and in which case if the original reporting notice was oral, delivered written notice must be made to the Department or other agency with regulatory jurisdiction within 4 (four) calendar days.

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; and
- e. Public notification steps taken, pursuant to General Condition B.7.

The following shall be included as information which must be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass which exceeds any effluent limitation in this permit.
- b. Any upset which exceeds any effluent limitation in this permit.
- c. Violation of maximum daily discharge limitation for any of the pollutants listed by the Director in this permit.

The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

6. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under General Condition D.4 or D.5, at the time monitoring reports are submitted. The reports 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.

7. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

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 Department, it shall promptly submit such facts or information.

8. Signatory Requirements

All applications, reports or information submitted to the Department shall be signed and certified in accordance with 40 CFR 122.22.

9. Falsification of Reports

Under ORS 468.953, 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, is subject to a Class C felony punishable by a fine not to exceed \$100,000 per violation and up to 5 years in prison.

10. Changes to Indirect Dischargers - [Applicable to Publicly Owned Treatment Works (POTW) only]

The permittee must provide adequate notice to the Department of the following:

- a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of the Clean Water Act if it were directly discharging those pollutants and;

- b. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 - c. For the purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
11. **Changes to Discharges of Toxic Pollutant - [Applicable to existing manufacturing, commercial, mining, and silvicultural dischargers only]**
The permittee must notify the Department as soon as they know or have reason to believe of the following:
- a. 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":
 - (1) One hundred micrograms per liter (100 µg/l);
 - (2) 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;
 - (3) 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
 - (4) The level established by the Department in accordance with 40 CFR 122.44(f).
 - b. 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":
 - (1) Five hundred micrograms per liter (500 µg/l);
 - (2) One milligram per liter (1 mg/l) for antimony;
 - (3) 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
 - (4) The level established by the Department in accordance with 40 CFR 122.44(f).

SECTION E. DEFINITIONS

1. BOD means five-day biochemical oxygen demand.
2. TSS means total suspended solids.
3. mg/l means milligrams per liter.
4. kg means kilograms.
5. m³/d means cubic meters per day.
6. MGD means million gallons per day.
7. Composite sample means a sample formed by collecting and mixing discrete samples taken periodically and based on time or flow.
8. FC means fecal coliform bacteria.
9. Technology based permit effluent limitations means technology-based treatment requirements as defined in 40 CFR 125.3, and concentration and mass load effluent limitations that are based on minimum design criteria specified in OAR 340-41.
10. CBOD means five day carbonaceous biochemical oxygen demand.
11. Grab sample means an individual discrete sample collected over a period of time not to exceed 15 minutes.
12. Quarter means January through March, April through June, July through September, or October through December.
13. Month means calendar month.
14. Week means a calendar week of Sunday through Saturday.
15. Total residual chlorine means combined chlorine forms plus free residual chlorine.
16. The term "bacteria" includes but is not limited to fecal coliform bacteria, total coliform bacteria, and E. coli bacteria.
17. POTW means a publicly owned treatment works.

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