UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 155
Seattle, WA 98101-3123

OFFICE OF
WATER AND WATERSHEDS

JUN 13 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Becky Patterson
Clerk/Treasurer
City of Elk River
P.O. Box H
Elk River, Idaho 83827

Re: Reissuance of NPDES Permit No.: ID0020362 for City of Elk River Wastewater Treatment Facility.

Dear Ms. Patterson:

We are reissuing the National Pollutant Discharge Elimination System (NPDES) permit for the facility referenced above. The enclosed document authorizes the facility to discharge pollutants from the outfall identified in the permit to the specified receiving water. In addition, we are enclosing the U.S. Environmental Protection Agency's response to the comments that were received on the draft permit during the public comment period.

This letter serves as service of notice under 40 CFR §124.15. The date of this letter initiates the 30-day appeal period set forth in 40 CFR §124.19(a)(3). The permit will become effective on the date indicated in the permit unless a timely appeal meeting the requirements of 40 CFR §124.19 is received by the Environmental Appeals Board (EAB). Information about the administrative appeal process may be obtained on-line at http://www.epa.gov/eab or by contacting the Clerk of the EAB at (202) 233-0122.

Sincerely,

Daniel D. Opalski, Director
Office of Water and Watersheds

Enclosures

cc: Mr. Austin Hopkins, Idaho Conservation League (via email)
Mr. John Cardwell, Regional Administrator, IDEQ Lewiston Regional Office (via email)
Ms. Sujata Cornell, Environmental Manager, IDEQ Lewiston Regional Office (via email)
Ms. Loren Moore, IDEQ (via email)

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue Suite 900
Seattle, Washington 98101-3140

Authorization to Discharge Under the National Pollutant Discharge Elimination System

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

City of Elk River
Landing Road
Elk River, Idaho 83827

is authorized to discharge from the City of Elk River Wastewater Treatment facility located in Elk River, Idaho, at the following location(s):

Outfall	Receiving Water	Latitude	Longitude
001	Elk Creek	46.785° N	116.1725° W

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

This permit shall become effective September 1, 2018.

This permit and the authorization to discharge shall expire at midnight, August 31, 2023.

The permittee shall reapply for a permit reissuance on or before March 4, 2023, 180 days before the expiration of this permit if the permittee intends to continue operations and discharges at the facility beyond the term of this permit.

Signed this 13th day of June, 2018.

Daniel D. Opalski, Director
Office of Water and Watersheds

Schedule of Submissions

Item	Due Date
Discharge Monitoring Reports (DMR)	DMRs are due monthly and must be postmarked on or before the 20th of the month following the monitoring month.
Quality Assurance Plan (QAP)	The permittee must provide EPA and IDEQ with written notification that the Plan has been developed and implemented within 180 days after the effective date of the final permit (see Part II.B of this permit). The Plan must be kept on site and made available to EPA and IDEQ upon request.
Operation and Maintenance (O&M) Plan	The permittee must provide EPA and IDEQ with written notification that the Plan has been developed and implemented within 180 days after the effective date of the final permit (see Part II.A of this permit). The Plan must be kept on site and made available to EPA and IDEQ upon request.
NPDES Application Renewal	The application must be submitted at least 180 days before the expiration date of the permit (see Part V.B of this permit).
Surface Water Monitoring Report (SWMRP)	Reporting must be submitted annually with the June DMR (see Part I.C. of this permit)
Twenty-Four Hour Notice of Noncompliance Reporting	The permittee must report certain occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances (see Part III.G and Paragraph I.B.3 of this permit).
Emergency Response and Public Notification Plan	The permittee must develop and implement an overflow emergency response and public notification plan. The permittee must submit written notice to EPA and IDEQ that the plan has been developed and implemented within 180 days of the effective date of this permit. (See Part E of this permit)
List of the Industrial Users	The Permittee must develop and maintain a master list of the industrial users introducing pollutants to the POTW. The Permittee must submit this list within two years following the effective date of the NPDES permit. (See Part II. D of this permit.)

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I. Limitations and Monitoring Requirements

A. Discharge Authorization

From November 1st to June 30th, during the effective period of this permit, the permittee is authorized to discharge pollutants from the outfalls specified herein to the Elk Creek, within the limits and subject to the conditions set forth herein. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

B. Effluent Limitations and Monitoring

1. The permittee must limit and monitor discharges from outfall 001 as specified in *Table 1. Effluent Limitations and Monitoring Requirements*, below. All figures represent maximum effluent limits unless otherwise indicated. The permittee must comply with the effluent limits in the tables 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
For discharge from November 1 to June 30.

Parameter	Units	Effluent Limitations			Monitoring Requirements		
		Average Monthly	Average Weekly	Maximum Daily	Sample Location	Sample Frequency	Sample Type
Parameters With Effluent Limits							
Biochemical Oxygen Demand (BOD_5)	mg/L	30	45	--	Influent and Effluent	1/week	Grab
	lbs/day	20	30	--			Calculation[1]
BOD_5 Percent Removal	%	85 (minimum)	--	--	--	1/month	Calculation[2]
Total Suspended Solids (TSS)	mg/L	30	45	--	Influent and Effluent	1/week	Grab
	lbs/day	20	30	--			Calculation[1]
TSS Percent Removal	%	85 (minimum)	--	--	--	1/month	Calculation[2]
E. coli[3]	CFU/ 100 ml	126	--	406 (instant. max)[4]	Effluent	5/month	Grab
Total Residual Chlorine	mg /L	0.09	--	0.21[4,5]	Effluent	1/week	Grab
	lbs/day	0.06	--	0.14[4]			Calculation[1]
pH	std units	Between 6.5 – 9.0			Effluent	1/week	Grab
Floating, Suspended, or Submerged Matter	--	See Paragraph I.B.2 of this permit				1/month	Visual Observation
		Report Parameters					
Flow	mgd	Report	--	Report	Effluent	continuous	Meter
Temperature	°C	--	Report	Report	Effluent	1/week	Grab
Total Phosphorus as P	mg/L	Report	--	Report	Effluent	1/week	Grab
Total Ammonia as N	mg/L	Report	--	Report	Effluent	1/week	Grab

Parameter	Units	Effluent Limitations			Monitoring Requirements		
		Average Monthly	Average Weekly	Maximum Daily	Sample Location	Sample Frequency	Sample Type

Notes

1. Loading (in lbs/day) is calculated by multiplying the concentration (in mg/L) by the corresponding flow (in mgd) for the day of sampling and a conversion factor of 8.34. For more information on calculating, averaging, and reporting loads and concentrations see the *NPDES Self-Monitoring System User Guide* (EPA 833-B-85-100, March 1985).
2. Percent Removal. The monthly average percent removal must be calculated from the arithmetic mean of the influent values and the arithmetic mean of the effluent values for that month using the following equation: (average monthly influent concentration – average monthly effluent concentration) ÷ average monthly influent concentration x 100. Influent and effluent samples must be taken over approximately the same time period.
3. The average monthly *E. coli* bacteria counts must not exceed a geometric mean of 126/100 ml based on a minimum of five samples taken every 3 - 7 days within a calendar month. See Part VI of this permit for a definition of geometric mean.
4. Reporting is required within 24 hours of a maximum daily limit or instantaneous maximum limit violation. See Paragraph I.B.3 and Part III.G of this permit.
5. The limits for chlorine are not quantifiable using EPA-approved analytical methods. The minimum level (ML) for chlorine is 50 µg/L for this parameter. The EPA will use 50 µg/L as the compliance evaluation level for this parameter. The permittee will be compliance with the total residual chlorine limitations if the average monthly and maximum daily concentrations are less than 50 µg/L and the average monthly and maximum daily mass loadings are less than 0.033 lbs/day. For purposes of calculating the monthly averages, see Paragraph I.B.7 of this permit.

2. Narrative limitations for floating, suspended or submerged matter:
   a) The permittee must not discharge floating, suspended, or submerged matter of any kind in concentrations causing nuisance or objectionable conditions or that may impair designated beneficial uses.
   b) The permittee must observe the surface of the receiving water in the vicinity of where the effluent enters the surface water. The permittee must maintain a written log of the observation which includes the date, time, observer, and whether there is presence of floating, suspended or submerged matter. The log must be retained and made available to EPA or IDEQ upon request.
3. The permittee must report within 24 hours any violation of the maximum daily limits for the following pollutants: E. coli and Total Residual Chlorine. Violations of all other effluent limits are to be reported at the time that discharge monitoring reports are submitted (See Parts III.B. *Reporting of Monitoring Results* and III.G. *Twenty-four Hour Notice of Noncompliance Reporting* of this permit).
4. The permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
5. For all effluent monitoring, the permittee must use sufficiently sensitive analytical methods which meet the following:
   a) Parameters with an effluent limit. The method must achieve a minimum level (ML) less than the effluent limitation unless otherwise specified in *Table 1 Effluent Limitations and Monitoring Requirements*.
   b) Parameters that do not have effluent limitations.

(i) The permittee must use a method that detects and quantifies the level of the pollutant, or

(ii) The permittee must use a method that can achieve a maximum ML less than or equal to those specified in Appendix A;

c) For parameters that do not have an effluent limit, the permittee may request different MLs. The request must be in writing and must be approved by EPA.

d) See also Part III.C *Monitoring Procedures*

6. For purposes of reporting on the DMR for a single sample, if a value is less than the MDL, the permittee must report "less than {numeric value of the MDL}" and if a value is less than the ML, the permittee must report "less than {numeric value of the ML}."

7. For purposes of calculating monthly averages, zero may be assigned for values less than the MDL, and the {numeric value of the MDL} may be assigned for values between the MDL and the ML. If the average value is less than the MDL, the permittee must report "less than {numeric value of the MDL}" and if the average value is less than the ML, the permittee must report "less than {numeric value of the ML}." If a value is equal to or greater than the ML, the permittee must report and use the actual value. The resulting average value must be compared to the compliance level, the ML, in assessing compliance.

C. Surface Water Monitoring Report (SWMRP)

The permittee must conduct surface water monitoring. Surface water monitoring must start 180 days after the effective date of the permit and continue for the duration of the permit whenever there is a discharge, with a minimum frequency of once a year. The program must meet the following requirements:

1. Monitoring stations must be established in Elk Creek at above the influence of the facility's discharge.

2. The permittee must seek approval of the surface water monitoring station from IDEQ.

3. A failure to obtain IDEQ approval of surface water monitoring stations does not relieve the permittee of the surface water monitoring requirements of this permit.

4. To the extent practicable, surface water sample collection must occur on the same day as effluent sample collection.

5. Samples must be analyzed for the parameters listed in *Table 2. Surface Water Monitoring Requirements.*

6. For all surface water monitoring, the permittee must use sufficiently sensitive analytical methods which meet the following:

a) The method must detect and quantify the level of the pollutant, or

b) The permittee must use a method that can achieve MLs less than or equal to those specified in Appendix A. The permittee may request different MLs. The request must be in writing and must be approved by EPA.

Table 2. Surface Water Monitoring Requirements

Parameter	Units	Frequency[1,2]	Sample Type
Temperature	°C	1/month	Measure
pH	standard units	1/month	Grab
Total Phosphorus	mg/l	1/month	Grab
Total Ammonia	mg/l	1/month	Grab

Notes:

1. Monitoring frequency of 1/month whenever there is a discharge.
2. A minimum monitoring frequency of once per year in June if the facility has not discharged beginning November 1st of the previous calendar year.

7. Quality assurance/quality control (QA/QC) plans for all the monitoring must be documented in the Quality Assurance Plan required under Part II.B.
8. Submission of SW Monitoring
   a) Surface water monitoring results must be reported on the monthly DMR.
   b) The permittee must submit all surface water monitoring results for the discharge period (November 1st to June 30th) for all parameters in an annual report to EPA and IDEQ. The file must be in the format of one analytical result per row and include the following information: name and contact information of laboratory, sample identification number, sample location in latitude and longitude (decimal degrees format), method of location determination (i.e., GPS, survey etc.), date and time of sample collection, water quality parameter (or characteristic being measured), analysis result, result units, detection limit and definition (i.e., MDL etc.), analytical method, date completed, and any applicable notes.
   c) The permittee may submit the surface water monitoring report as an attachment to the June DMR. The file name of the electronic attachment must be as follows: YYYY_MM_DD_ID0020362_SWMRP, where YYYY_MM_DD is the date that the permittee submits the report.

II. Special Conditions

A. Operation and Maintenance Plan

In addition to the requirements specified in Part IV.E, *Proper Operation and Maintenance*, the permittee must develop and implement an Operations and Maintenance (O&M) Plan for the wastewater treatment facility. Any existing O&M Plan may be modified for compliance with this section. Any changes occurring in the operation of the plant must be reflected within the O&M Plan.

Within 180 days of the effective date of this permit, the permittee must submit written notice to EPA and IDEQ that the O&M Plan has been developed and implemented.

The permittee may submit the written notification as an electronic attachment to the DMR. The file name of the electronic attachment must be as follows: YYYY_MM_DD_ ID0020362 _O&M_50108, where YYYY_MM_DD is the date that the permittee submits the written notification. The plan must be retained on site and made available to EPA and/or IDEQ upon request.

B. Quality Assurance Plan (QAP)

The permittee must develop a quality assurance plan (QAP) for all monitoring required by this permit. Any existing QAPs may be modified for compliance with this section.

Within 180 days of the effective date of this permit, the permittee must submit written notice to EPA and IDEQ that the QAP has been developed and implemented. The permittee may submit written notification as an electronic attachment to the DMR. The file name of the electronic attachment must be as follows: YYYY_MM_DD_ ID0020362_QAP_55099, where YYYY_MM_DD is the date that the permittee submits the written notification. The plan must be retained on site and made available to EPA and/or IDEQ upon request.

1. The QAP must be designed to assist in planning for the collection and analysis of effluent and receiving water samples in support of the permit and in explaining data anomalies when they occur.
2. Throughout all sample collection and analysis activities, the permittee must use the EPA-approved QA/QC and chain-of-custody procedures described in *EPA Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). The QAP must be prepared in the format that is specified in these documents.
3. At a minimum, the QAP must include the following:
    a) Details on the number of samples, type of sample containers, preservation of samples, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.
    b) Map(s) indicating the location of each sampling point.
    c) Qualification and training of personnel.
    d) Name(s), address(es) and telephone number(s) of the laboratories used by or proposed to be used by the permittee.
4. The permittee must 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 must be retained on site and made available to EPA and/or IDEQ upon request.

C. Facility Planning Requirement

1. Design Criteria. The maximum design flows and waste loads for the permitted facility are:

Table 3. Facility Planning Values

Facility Design Criteria	Value	Units
Maximum Monthly Flow	0.08	mgd
Maximum monthly flow means the largest volume of flow anticipated to occur during a continuous 30-day period, expressed as a daily average.		

2. Plan for maintaining adequate capacity
   a) Condition to trigger plan development
      (i) Each month, the Permittee must record the average daily flow for that month.
      (ii) When the actual flow for any two months during a 12-month period exceed the facility planning values listed in Table, the permittee must develop a new or updated plan and schedule for continuing to maintain capacity and maintain compliance with effluent limits.
   b) Submittal. The plan must be submitted to IDEQ within 18 months of exceeding the trigger.
   c) Plan and schedule content. The plan and schedule must identify the actions necessary to maintain adequate capacity and to meet the limits and requirements of the permit. The Permittee must consider the following topics and actions in its plan:
      (i) Analysis of the present design and proposed process modifications
      (ii) Reduction or elimination of excessive infiltration and inflow of uncontaminated ground and surface water into the sewer system
      (iii) Limits on future sewer extensions or connections or additional waste loads
      (iv) Modification or expansion of facilities
      (v) Reduction of industrial or commercial flows or waste loads

D. Industrial Waste Management

1. The Permittee must not authorize the introduction of pollutants that would inhibit, interfere, or otherwise be incompatible with operation of the treatment works including interference with the use or disposal of municipal sludge.
2. The Permittee must not authorize, under any circumstances, the introduction of the following pollutants to the POTW from any source of nondomestic discharge:
   a) Any pollutant which may cause Pass Through or Interference;

b) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 60° C (140° F) using the test methods specified in 40 CFR 261.21;

c) Pollutants which will cause corrosive structural damage to the POTW, but in no case indirect discharges with a pH of lower than 5.0 s.u., unless the treatment facilities are specifically designed to accommodate such indirect discharges;

d) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, or other interference with the operation of the POTW;

e) Any pollutant, including oxygen demanding pollutants (e.g., BOD_5), released in an indirect discharge at a flow rate and/or pollutant concentration which will cause Interference with any treatment process at the POTW;

f) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40° C (104° F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits;

g) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through at the POTW;

h) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

i) Any trucked or hauled pollutants, except at discharge points designated by the POTW

j) Any specific pollutant which exceeds a local limitation established by the Permittee in accordance with the requirements of 40 CFR 403.5(c) and (d).

3. The Permittee must develop and maintain a master list of the industrial users introducing pollutants to the POTW. Industrial user means any source of indirect discharge from a non-domestic source. This list must identify:

   a) Names and addresses of all industrial users;

   b) Which industrial users are significant industrial users (SIUs) (see Paragraph 5 of this Part);

   c) Which SIUs are subject to categorical Pretreatment Standards (see 40 CFR 405-471);

   d) Which standards are applicable to each industrial user (if any);

   e) Which industrial users are subject to local standards that are more stringent than the categorical Pretreatment Standards; and

   f) Which industrial users are subject only to local requirements.

4. The Permittee must submit this list, along with a summary description of the sources and information gathering methods used to develop this list, to EPA

within two years following the effective date of the NPDES permit. The permittee may submit the list as an electronic attachment to NetDMR. The file name of the electronic attachment must be as follows: YYYY_MM_DD_ ID0020362 _Industrial User_12099, where YYYY_MM_DD is the date that the permittee submits the written notification.

5. For the purposes of this list development, the term SIU means:
   a) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and
   b) Any other industrial user that:
      (i) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
      (ii) contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
      (iii) is designated as such by EPA or the Permittee on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violation any Pretreatment Standard or requirement in accordance with 40 CFR 403.8(f)(6).

E. Emergency Response and Public Notification Plan

1. The permittee must develop and implement an overflow emergency response and public notification plan that identifies measures to protect public health from overflows that may endanger health and unanticipated bypasses or upsets that exceed any effluent limitation in the permit. At a minimum the plan must include mechanisms to:
   a) Ensure that the permittee is aware (to the greatest extent possible) of all overflows from portions of the collection system over which the permittee has ownership or operational control and unanticipated bypass or upset that exceed any effluent limitation in the permit;
   b) Ensure appropriate responses including assurance that reports of an overflow or of an unanticipated bypass or upset that exceed any effluent limitation in the permit are immediately dispatched to appropriate personnel for investigation and response;
   c) Ensure immediate notification to the public, health agencies, and other affected public entities (including public water systems). The overflow response plan must identify the public health and other officials who will receive immediate notification;
   d) Ensure that appropriate personnel are aware of and follow the plan and are appropriately trained; and
   e) Provide emergency operations.

2. The permittee must submit written notice to EPA and IDEQ that the plan has been developed and implemented within 180 days of the effective date of this permit. Any existing emergency response and public notification plan may be modified for compliance with this section.
3. The permittee may submit the written notification as an electronic attachment to the DMR. The file name of the electronic attachment must be as follows: YYYY_MM_DD_ ID0020362_ERPNP, where YYYY_MM_DD is the date that the permittee submits the written notification.

III. Monitoring, Recording and Reporting Requirements

A. Representative Sampling (Routine and Non-Routine Discharges)

Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample.

The permittee must analyze the additional samples for those parameters limited in Part I.B of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with Part III.C of this permit, *Monitoring Procedures*. The permittee must report all additional monitoring in accordance with Part III.D of this permit, *Additional Monitoring by Permittee*.

B. Reporting of Monitoring Results

The permittee must submit monitoring data and other reports electronically using NetDMR.

1. Monitoring data must be submitted electronically to EPA no later than the 20th of the month following the completed reporting period.
2. The permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Part V.E, of this permit Signatory Requirements.
3. The permittee must submit copies of the DMRs and other reports to IDEQ.
4. Submittal of Reports as NetDMR Attachments. Unless otherwise specified in this permit, the permittee may submit all reports to EPA and IDEQ as NetDMR attachments rather than as hard copies. The file name of the electronic attachment must be as follows: YYYY_MM_DD_ ID0020362 _Report Type Name_Identifying Code, where YYYY_MM_DD is the date that the permittee submits the attachment.

5. The permittee may use NetDMR after requesting and receiving permission from US EPA Region 10. NetDMR is accessed from: https://netdmr.epa.gov/netdmr/public/home.htm

C. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless another method is required under 40 CFR subchapters N or O, or other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5.

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 must include the results of this monitoring in the calculation and reporting of the data submitted in the DMR.

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

E. Records Contents

Records of monitoring information must include:

1. the date, exact place, and time of sampling or measurements;
2. the name(s) 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. Retention of Records

The permittee must 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, 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. This period may be extended by request of EPA or IDEQ at any time.

G. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee must report the following occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances:
   a) any noncompliance that may endanger health or the environment;

b) any unanticipated bypass that exceeds any effluent limitation in the permit (See Part IV.F of this permit, *Bypass of Treatment Facilities*);

c) any upset that exceeds any effluent limitation in the permit (See Part IV.G of this permit, *Upset Conditions*); or

d) any violation of a maximum daily discharge limitation for applicable pollutants identified by Table 1 of Part I.B.

e) any overflow prior to the treatment works over which the permittee has ownership or has operational control. An overflow is any spill, release or diversion of municipal sewage including:

(i) an overflow that results in a discharge to waters of the United States; and

(ii) an overflow of wastewater, including a wastewater backup into a building (other than a backup caused solely by a blockage or other malfunction in a privately owned sewer or building lateral) that does not reach waters of the United States.

2. The permittee must also provide a written submission within five days of the time that the permittee becomes aware of any event required to be reported under Paragraph 1 above. The written submission must 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 recurrence of the noncompliance.

e) if the noncompliance involves an overflow, the written submission must contain:

(i) The location of the overflow;

(ii) The receiving water (if there is one);

(iii) An estimate of the volume of the overflow;

(iv) A description of the sewer system component from which the release occurred (e.g., manhole, constructed overflow pipe, crack in pipe);

(v) The estimated date and time when the overflow began and stopped or will be stopped;

(vi) The cause or suspected cause of the overflow;

(vii) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the overflow and a schedule of major milestones for those steps;

(viii) An estimate of the number of persons who came into contact with wastewater from the overflow; and

(ix) Steps taken or planned to mitigate the impact(s) of the overflow and a schedule of major milestones for those steps.

3. The Director of the Office of Compliance and Enforcement may 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 must be submitted in paper form. The permittee must sign and certify the report in accordance with the requirements of Part V.E, of this permit *Signatory Requirements.* The permittee must submit the legible originals of these documents to the Director, Office of Compliance and Enforcement, with copies to IDEQ at the following addresses:

US EPA Region 10
Attn: ICIS Data Entry Team
1200 Sixth Avenue, Suite 900
OCE-101
Seattle, Washington 98101-3140

Idaho Department of Environmental Quality
Lewiston Regional Office
1118 F St.
Lewiston, Idaho 83501

H. Other Noncompliance Reporting

The permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Part III.B of this permit, *Reporting of Monitoring Results* are submitted. The reports must contain the information listed in Paragraph III.G of this permit.

I. Public Notification

The permittee must immediately notify the public, health agencies and other affected entities (e.g., public water systems) of any overflow which the permittee owns or has operational control; or any unanticipated bypass or upset that exceeds any effluent limitation in the permit in accordance with the notification procedures developed in accordance with Part III.G of this permit.

J. Notice of New Introduction of Toxic Pollutants

The permittee must notify the Director of the Office of Water and Watersheds and IDEQ in writing of:

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

2. 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.

3. For the purposes of this section, adequate notice must include information on:
   a) The quality and quantity of effluent to be introduced into the POTW, and
   b) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
4. The permittee must notify the Director of the Office of Water and Watersheds at the following address:

   US EPA Region 10
   Attn: NPDES Permits Unit Manager
   1200 6th Avenue
   Suite 900 OWW-191
   Seattle, WA 98101-3140

K. 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 must be submitted no later than 14 days following each schedule date.

IV. Compliance Responsibilities

A. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application.

B. Penalties for Violations of Permit Conditions

1. Civil and Administrative Penalties. Pursuant to 40 CFR Part 19 and the Act, any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 USC § 2461 note) as amended by the Debt Collection Improvement Act (31 USC § 3701 note) (currently $52,414 per day for each violation).
2. Administrative Penalties. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR Part 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 USC § 2461 note) as amended by the Debt Collection Improvement Act (31 USC § 3701 note) (currently $20,965 per violation, with the maximum amount of any Class I penalty assessed not to

exceed $52,414). Pursuant to 40 CFR Part 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 USC § 2461 note) as amended by the Debt Collection Improvement Act (31 USC § 3701 note) (currently $20,965 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $262,066).

3. Criminal Penalties:

   a) Negligent Violations. The Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

   b) Knowing Violations. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both.

   c) Knowing Endangerment. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, 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 of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions.

   d) False Statements. 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, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a

fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further 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 non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

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 must 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 must 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 the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. 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 must submit prior written notice, if possible at least 10 days before the date of the bypass.
    b) Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required under Part III.G of this permit, *Twenty-four Hour Notice of Noncompliance Reporting.*

3. Prohibition of bypass.

   a) Bypass is prohibited, and the Director of the Office of Compliance and Enforcement may take enforcement action against the permittee for a bypass, unless:

      (i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

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

      (iii) The permittee submitted notices as required under Paragraph 2 of this Part.

   b) The Director of the Office of Compliance and Enforcement may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Paragraph 3.a. of this Part.

G. 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 must 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.G of this permit, *Twenty-four Hour Notice of Noncompliance Reporting* and

   d) The permittee complied with any remedial measures required under Part IV.D of this permit, *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.

H. Toxic Pollutants

The permittee must comply with effluent standards or prohibitions established under Section 307(a) and with standards for sewage sludge use or disposal established under

section 405(d) of the 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.

I. Planned Changes

The permittee must give written notice to the Director of the Office of Water and Watersheds as specified in Paragraph III.J.4 of this permit, 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 not subject to effluent limitations in this permit.
3. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application site.

J. Anticipated Noncompliance

The permittee must give written advance notice to the Director of the Office of Compliance and Enforcement and IDEQ of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

K. Reopener

This permit may be reopened to include any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the Act. The Director may modify or revoke and reissue the permit if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

V. General Provisions

A. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR 122.62, 122.64, or 124.5. The filing of a request by the permittee for a permit modification, revocation and reissuance, 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.

In accordance with 40 CFR 122.21(d), and unless permission for the application to be submitted at a later date has been granted by the Regional Administrator, the permittee must submit a new application at least 180 days before the expiration date of this permit.

C. Duty to Provide Information

The permittee must furnish to EPA and IDEQ, within the time specified in the request, any information that EPA 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 must also furnish to EPA 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 EPA or IDEQ, it must promptly submit the omitted facts or corrected information in writing.

E. Signatory Requirements

All applications, reports or information submitted to EPA and IDEQ must be signed and certified as follows.

1. All permit applications must 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, Indian tribe, 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 EPA or IDEQ must 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;
   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; and
   c) The written authorization is submitted to the Director of the Office of Compliance and Enforcement and IDEQ.
3. Changes to authorization. If an authorization under Paragraph 2 of this Part 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 2 of this Part must be submitted to the Director of the Office of Compliance and Enforcement 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 must 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

In accordance with 40 CFR Part 2, information submitted to EPA pursuant to this permit may be claimed as confidential by the permittee. In accordance with the Act, permit applications, permits and effluent data are not considered confidential. Any confidentiality claim must be asserted at the time of submission by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice to the permittee. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR 2, Subpart B (Public Information) and 41 Fed. Reg. 36902 through 36924 (September 1, 1976), as amended.

G. Inspection and Entry

The permittee must allow the Director of the Office of Compliance and Enforcement, EPA Region 10; 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 Act, any substances or parameters at any location.

H. 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 persons or property or invasion of other private rights, nor any infringement of federal, tribal, state or local laws or regulations.

I. Transfers

This permit is not transferable to any person except after written notice to the Director of the Office of Water and Watersheds as specified in Part III.J.4. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (*See* 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory).

J. 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 Act.

VI. Definitions

1. "Act" means the Clean Water Act.
2. "Administrator" means the Administrator of the EPA, or an authorized representative.
3. Approval Authority means the Administrator of the EPA, or an authorized representative.
4. "Average monthly discharge limitation" means the highest allowable 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.
5. "Average weekly discharge limitation" means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week.
6. "Best Management Practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.
7. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
8. "Composite" - see "24-hour composite".

9. "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.
10. "Director of the Office of Compliance and Enforcement" means the Director of the Office of Compliance and Enforcement, EPA Region 10, or an authorized representative.
11. "Director of the Office of Water and Watersheds" means the Director of the Office of Water and Watersheds, EPA Region 10, or an authorized representative.
12. "DMR" means discharge monitoring report.
13. "EPA" means the United States Environmental Protection Agency.
14. "Geometric Mean" means the nth root of a product of n factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.
15. "Grab" sample is an individual sample collected over a period of time not exceeding 15 minutes.
16. "IDEQ" means the Idaho Department of Environmental Quality.
17. "Indirect Discharge" means the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Act.
18. "Industrial User" means a source of "Indirect Discharge."
19. "Interference" means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both: 1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and 2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.
20. "Maximum daily discharge limitation" means the highest allowable "daily discharge."
21. "Method Detection Limit (MDL)" means the minimum measured concentration of a substance that can be reported with 99% confidence that the measured concentration is distinguishable from method blank results.

22. "Minimum Level (ML)" means either the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL). Minimum levels may be obtained in several ways: They may be published in a method; they may be sample concentrations equivalent to the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a lab, by a factor.
23. "National Pollutant Discharge Elimination System (NPDES)" means, the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Act.
24. "Pass Through" means a Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
25. "QA/QC" means quality assurance/quality control.
26. "Regional Administrator" means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.
27. "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.
28. "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.

Appendix A

Minimum Levels

The Table below lists the maximum Minimum Level (ML) for pollutants not subject to concentration effluent limits in the permit. The permittee may request different MLs. The request must be in writing and must be approved by EPA. If the Permittee is unable to obtain the required ML in its effluent due to matrix effects, the Permittee must submit a matrix-specific detection limit (MDL) and a ML to EPA with appropriate laboratory documentation.

Pollutant & CAS No. (if available)	Minimum Level (ML) µg/L unless specified
Biochemical oxygen demand	2 mg/L
Chlorine, total residual (7782-50-5)	50.0
Dissolved oxygen	+/- 0.2 mg/L
Mercury, total (7439-97-6)	0.0005
Nitrate + nitrite nitrogen (as N)	100
Nitrogen, total Kjeldahl (as N) (7727-37-9)	300
Oil and grease (HEM) (hexane extractable material)	5,000
pH	N/A
Phosphorus, total (as P)	10
Soluble reactive phosphorus (as P)	10
Temperature	+/- 0.2° C
Total ammonia (as N) (7664-41-7)	50
Total dissolved solids	20 mg/L
Total suspended solids	5 mg/L

U.S. Environmental Protection Agency Region 10

Response to Comments on the Draft NPDES Permit for the City of Elk River Wastewater Treatment Facility: Permit Number ID0020362 June 12, 2018

Background

On March 16, 2018, the United States Environmental Protection Agency Region 10 (EPA) issued a draft National Pollutant Discharge Elimination System (NPDES) permit for public review and comment for the wastewater treatment facility at the City of Elk River, Idaho (NPDES Permit Number ID0020362). The public comment period closed on April 16, 2018. The EPA received comments on the draft permit from the Idaho Conservation League (ICL) dated April 13, 2018, as shown below.

The EPA's response to the comments received are set forth below. The EPA has included each comment verbatim from the commenter. No changes were made to the permit as the result of comments received on the draft permit. However, in preparing the final permit the EPA corrected an error in the Schedule of Submissions (*See* Page 2 of Permit). The Schedule of Submissions is a summary of submittals required by the permit and is intended to serve as a reminder list for the permittee. The draft permit incorrectly listed Whole Effluent Toxicity (WET) Testing on the Schedule of Submission. Because WET testing was not required nor intended to be required in the Draft Permit or Final Permit, EPA removed WET reporting from the Schedule of Submissions.

Comment #1:

Endangered Species Act Consultation

The EPA identified the following threatened or endangered species through accessing websites maintained by the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS):

- Snake River Fall-run Steelhead (threatened)
- Snake River Spring/Summer-run Chinook Salmon (threatened)
- Snake River Sockeye Salmon (endangered)
- Snake River Steelhead (threatened)
- Bull Trout (threatened)

The EPA concludes their ESA assessment with the following statement:

"Based on the small and seasonal discharge of the facility, together with protective secondary treatment standards and compliance with the Idaho WQS, the EPA believes that compliance with

the draft permit would have no known measurable affect, therefore, there is NO EFFECT to the above Threatened and Endangered Species."

The above statement reflects the EPA's opinion on this matter, but that fails to satisfy the requirements of Section 7 of the ESA (Section 7). Section 7 requires the EPA to "request a consultation with the NMFS and USFWS." As presented, it does not appear that the EPA has requested such a consultation from either the NMFS or USFWS, and thus has yet to satisfy the requirements stipulated by Section 7.

Prior to reissuing this permit, the EPA must request such a consultation and provide sufficient time for the NMFS and USFWS to research and respond to the EPA's request. Along the same lines of reason as detailed above, the EPA must also consult with NOAA Fisheries regarding essential fish habitat in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

Response #1

As explained in the Fact Sheet, the Elk River Wastewater Treatment Facility (facility) intermittently discharges between November 1st to July 31st. Given the small seasonal discharge combined with the effluent limits and conditions in the permit, the EPA has concluded that there will be no effect on endangered species. Fact Sheet at p. 26. When the EPA makes a finding of no effect, consultation with the Services is not required.

Similarly, for the same reasons, the EPA concluded that there will be no effect on EFH; therefore, consultation with NOAA Fisheries is not required.

No changes to the Final Permit resulted from this comment.

Comment #2

Backsliding on TRC Effluent Limits

Section V.E. of the Fact Sheet states that the draft permit includes less stringent chlorine limits than those in the previous permit. We question EPA's reasoning for this modification and believe that the chlorine standards cannot be allowed to regress in this manner.

The EPA's justification for relaxing the chlorine limits is that this change will not violate the existing water quality standards for chlorine and that Idaho provided a sufficient antidegradation review, thus satisfying the CWA requirements to allow backsliding. However, as stated on page 15 of the Fact Sheet, "the Clean Water Act requires that the effluent limits for a particular pollutant be the more stringent of either technology-based limits or water quality-based limits." Given that the previous permit had more stringent chlorine limits, it is evidently technologically feasible to attain those limits. On the basis of the requirements of 40 CFR 125.3(a), WQBELs are to be imposed when they provide more stringent effluent limitations (in the event that TBELs are not sufficient to protect water quality), which is clearly not the case here. To our knowledge, the provisions in 40 CFR 122.44(l) allowing for backsliding to occur under certain

conditions do not override the requirement that permits utilize the more stringent of either TBELs or WQBELs, as required by 40 CFR 125.3(a).

In its current form, the EPA's draft permit is in clear violation of the Clean Water Act because it establishes chlorine limits based on the less stringent WQBELs rather than the demonstrably more stringent TBELs. To comply with the CWA, the EPA must keep the previous chlorine limits.

We are particularly concerned about the proposed weakening of chlorine limits for the Elk River WWTP due to our concerns with the underlying analyses EPA is using to justify this proposed backsliding, as detailed in our comments below on low-flow calculations and IDEQ's antidegradation analysis.

Response #2

The TRC effluent limits in the previous permit and the Draft Permit are water quality-based effluent limits; the limits were not technology-based effluent limits. For water quality-based effluent limits, the permitting authority may include a less stringent effluent limit in a subsequent permit if the permitting authority shows compliance with Clean Water Act Section 303(d)(4). As explained in the Fact Sheet, when a water body is in attainment, an effluent limit can be made less stringent if an adequate antidegradation analysis has been completed. Here, the EPA took into consideration new flow information which resulted in a less stringent effluent limit. The Idaho Department Environmental Quality (IDEQ) provided an antidegradation analysis for the permit. The EPA reviewed the antidegradation analysis and found that it was consistent with the State's antidegradation policy and implementation methods.

No Changes to the Final Permit resulted from this comment.

Comment #3

Low-Flow Calculations

We are curious about the time window the EPA used when calculating low-flows using the USGS Streamstats Version 3.0 (Streamstats). Both the existing and proposed NPDES permit only authorize discharge during the months from November to June. As such, only observed or modeled flows during these months should be included in low-flow calculations. We ask that the EPA clarify which months were included in their Streamstats modeling efforts and potentially revise their calculations if modeled flows occurring outside the authorized discharge window were included in the analysis.

Response #3

Low flow calculations from StreamStats Version 3.0 could only be estimated on an annual (12-month) basis. Since the authorized discharge period is included in the period in the StreamStats estimation, the calculation is representative and accurately estimates the low flows for the authorized discharge period.

No changes in the Final Permit resulted from this comment.

Comment #4

TRC Antidegradation Analysis

Tier II water bodies are defined in IDAPA 58.01.02.051.02 as "*where the quality of the water exceeds levels necessary to support propagation of fish, shellfish and wildlife and recreation in and out of the water.*" Prior to approving activity or discharges into these waters, IDEQ must perform an antidegradation review to evaluate the effect of an activity or discharge on water quality through a Tier II analysis, as outlined in IDAPA

58.01.02.052.08. It's important to note that a Tier II analysis requires a high-degree of specificity in order to fully assess the chemical, physical, biological and other information regarding the water body.

Our concerns stem from DEQ's assertion that no degradation will result from the reissuance of this permit – which would include increased TRC effluent limits – despite a lack of supporting analyses substantiating this claim. Idaho's Antidegradation Rules require a series of assessments that must be followed, beginning with the identification of a waterbodies status. Elk Creek has been identified by IDEQ as a Tier II waterbody.

Once appropriately identified, the next step is to evaluate the effect of an activity or discharge on water quality, as required by IDAPA 58.01.02.052.06(a). The stated requirement of this section includes the following:

> *"Effect on water quality will be based on the calculated change in concentration in the receiving water as a result of a new or reissued permit or license."* and;
>
> *"For a new permit or license, the calculated change will be the difference between the existing receiving water quality and water quality that would result from the activity or discharge as proposed in the new permit or license"*

These rules explicitly require that the effect on water quality be calculated in some manner. As presented, IDEQ's 401 Certification does not include any such required calculation demonstrating the quantitative impact to water quality resulting from the increased TRC effluent limit. IDEQ asserts that the EPA's use of Streamstats to assign a nonzero low-flow negates potential changes in water quality. However, not only do we have concerns around low-flow calculations (see previous comment), this approach also solely reflects IDEQ's opinion. IDEQ's statement lacks calculated support validating this assertion, as required by IDAPA 58.01.02.052.06(a). The fact that IDEQ reached conclusions without providing details on these calculations concerns us, and we do not believe this approach satisfies the requirements of Idaho's Antidegradation Policy.

If, after appropriate quantitative analysis, it is demonstrated that degradation will occur as a result of this project, then IDEQ must determine whether or not that degradation is significant.

IDAPA 58.01.02.052.08(a)(i) defines significant degradation as *"a cumulative decrease in assimilative capacity of more than ten percent (10%), from conditions of July 1, 2011, shall constitute significant degradation."* Again, the determination of whether or not degradation is significant must be substantiated by appropriate analyses and or calculations, and should be included in the draft and final certification prepared by IDEQ and presented to the public. Neither the draft permit nor 401 Cert discusses the assimilative capacity of Elk Creek with regards to chlorine, thus it remains unanswered whether the 10% threshold has been exceeded.

If degradation is determined to be significant (i.e. – exceeds 10% of assimilative capacity), IDEQ must then perform a Tier II antidegradation analysis as required by IDAPA 58.01.02.052.08. Included in this analysis is the requirement that IDEQ review all point- and non-point discharges throughout the watershed to ensure they are achieving the highest statutory and regulatory requirements (IDAPA 58.01.02.052.08(b)).

Tier II waterbodies are becoming increasingly rare throughout our state, making it imperative that any work being proposed within a Tier II waterbody receives the upmost scrutiny and all necessary analyses are performed. There are a number of steps required to review work within a Tier II waterbody, and we are concerned that IDEQ has yet to satisfy all the requirements associated with certifying work within the Tier II waterbody Elk Creek.

The EPA's justification for allowing backsliding on TRC limits is reliant upon a complete and accurate antidegradation analysis from IDEQ. It would be inappropriate for the EPA to rely on the antidegradation analysis presented until such time that the aforementioned steps are completed, as required by Idaho's Antidegradation Policy. Once a full antidegradation analysis is completed, the EPA should review the assumptions made to justify backsliding to assess whether their justification remains appropriate for this scenario.

Response #4

EPA was provided a CWA Section 401 Certification that this permitting action complies with Idaho's Antidegradation policy. IDEQ certified that it completed its antidegradation review in accordance with its implementation procedures.

This comment relates to IDEQ's 401 certification therefore IDEQ will respond to this comment. Pertaining to backsliding, please refer to the Response #2, above.

No Changes to the Final Permit resulted from this comment.

Comment #5

Monitoring Requirements

The final permit issued to this facility should explicitly state that all monitoring, sampling, and reporting requirements would remain in effect throughout the life of this permit, including any

administrative extensions that may be granted. The current permit has been administratively extended for close to 10 years. Data necessary to evaluate permit reissuance must be collected throughout such time in order to accurately assess the impact future permit reissuances could have on the receiving water body.

Response #5

The Final Permit requires that monitoring must take place during the duration of the permit. The permit continues to be effective even when it is administratively extended, and the facility is required to conduct monitoring during the permit duration. Therefore, should the permit become administratively extended again, the facility would still be required to continue monitoring until either the permit is terminated, or when a new permit is reissued, which would then include a new set of monitoring requirements.

No Changes to the Final Permit resulted from this comment.

Comment #6

IDEQ 2015 Inspection Report

The IDEQ completed an inspection report in 2015 that detailed a number of concerns related to this facilities permit violations. Per the EPA's Fact Sheet, these concerns include:

- The adequate maintenance of the structure of the sewage lagoons;
- The poor housekeeping in the disinfection building;
- The adherence to the Quality Assurance Plan (QAP) and adequate maintenance of monitoring equipment;
- The proper reporting of loading information on the DMRs;
- The July 2015 DMR was not submitted.

EPA goes on to say that these documented concerns were not addressed in the Final 2016 Consent Agreement between EPA and the facility over the facilities alleged permit violations. In light of this, the EPA should address these concerns through the reissuance of this permit. Where applicable, the EPA should include permit conditions or compliance orders that target each of the above concerns identified by DEQ.

Response #6

The Final Permit contains provisions that will ensure that the concerns identified by IDEQ are addressed. The permit requires proper operation and maintenance (see Part II.A, page 9 of Final Permit), submittal of DMRs (see Part III.B, page 14 of Final Permit), and an updated Quality and Assurance Plan (see Part II.B, page 10 of Final Permit).

No Changes to the Final Permit resulted from this comment.

IDAHO CONSERVATION LEAGUE

4/13/18

Kai Shum
US EPA Region 10
1200 Sixth Ave
Seattle, WA 98101

Sujata Connell
Idaho DEQ, Lewiston Regional Office
1118 F St.
Lewiston, ID 835

Submitted via email: shum.kai@epa.gov and sujata.connell@deq.idaho.gov

RE: Idaho Conservation League Comments on Draft NPDES and Accompanying 401 Certification for City of Elk River WWTP

Dear Mr. Shum and Ms. Connell

Thank you for the opportunity to comment on the draft NPDES permit and accompanying 401 Certification (hereinafter "401 Cert") for the City of Elk River WWTP

Since 1973, the Idaho Conservation League has been Idaho's leading voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho's largest state-based conservation organization, we represent over 30,000 supporters, many of whom have a deep personal interest in protecting water quality and aquatic habitat throughout Idaho.

We thank you for the opportunity to review the proposed permit and ask that you please send us subsequent documents for this project. Our comments can be found following this letter. Please do not hesitate to contact me at 208-345-6933 ext. 23 or ahopkins@idahoconservation.org if you have any questions regarding our comments or if we can provide you with any additional information on this matter.

Sincerely,

Austin Hopkins
Conservation Associate

Endangered Species Act Consultation

The EPA identified the following threatened or endangered species through accessing websites maintained by the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS):

- Snake River Fall-run Steelhead (threatened)
- Snake River Spring/Summer-run Chinook Salmon (threatened)
- Snake River Sockeye Salmon (endangered)
- Snake River Steelhead (threatened)
- Bull Trout (threatened)

The EPA concludes their ESA assessment with the following statement:

"Based on the small and seasonal discharge of the facility, together with protective secondary treatment standards and compliance with the Idaho WQS, the EPA believes that compliance with the draft permit would have no known measurable affect, therefore, there is NO EFFECT to the above Threatened and Endangered Species."

The above statement reflects the EPA's opinion on this matter, but that fails to satisfy the requirements of Section 7 of the ESA (Section 7). Section 7 requires the EPA to "request a consultation with the NMFS and USFWS." As presented, it does not appear that the EPA has requested such a consultation from either the NMFS or USFWS, and thus has yet to satisfy the requirements stipulated by Section 7.

Prior to reissuing this permit, the EPA must request such a consultation and provide sufficient time for the NMFS and USFWS to research and respond to the EPA's request. Along the same lines of reason as detailed above, the EPA must also consult with NOAA Fisheries regarding essential fish habitat in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

Backsliding on TRC Effluent Limits

Section V.E. of the Fact Sheet states that the draft permit includes less stringent chlorine limits than those in the previous permit. We question EPA's reasoning for this modification and believe that the chlorine standards cannot be allowed to regress in this manner.

The EPA's justification for relaxing the chlorine limits is that this change will not violate the existing water quality standards for chlorine and that Idaho provided a sufficient antidegradation review, thus satisfying the CWA requirements to allow backsliding. However, as stated on page 15 of the Fact Sheet, "the Clean Water Act requires that the effluent limits for a particular pollutant be the more stringent of either technology-based

limits or water quality-based limits." Given that the previous permit had more stringent chlorine limits, it is evidently technologically feasible to attain those limits. On the basis of the requirements of 40 CFR 125.3(a), WQBELs are to be imposed when they provide more stringent effluent limitations (in the event that TBELs are not sufficient to protect water quality), which is clearly not the case here. To our knowledge, the provisions in 40 CFR 122.44(l) allowing for backsliding to occur under certain conditions do not override the requirement that permits utilize the more stringent of either TBELs or WQBELs, as required by 40 CFR 125.3(a).

In its current form, the EPA's draft permit is in clear violation of the Clean Water Act because it establishes chlorine limits based on the less stringent WQBELs rather than the demonstrably more stringent TBELs. To comply with the CWA, the EPA must keep the previous chlorine limits.

We are particularly concerned about the proposed weakening of chlorine limits for the Elk River WWTP due to our concerns with the underlying analyses EPA is using to justify this proposed backsliding, as detailed in our comments below on low-flow calculations and IDEQ's antidegradation analysis.

Low-Flow Calculations

We are curious about the time window the EPA used when calculating low-flows using the USGS Streamstats Version 3.0 (Streamstats). Both the existing and proposed NPDES permit only authorize discharge during the months from November to June. As such, only observed or modeled flows during these months should be included in low-flow calculations. We ask that the EPA clarify which months were included in their Streamstats modeling efforts and potentially revise their calculations if modeled flows occurring outside the authorized discharge window were included in the analysis.

TRC Antidegradation Analysis

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