

Expiration Date: 9/30/2007
Permit Number: 102607
File Number: 111877
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**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT**

Oregon Department of Environmental Quality
Eastern Region
700 SE Emigrant, Suite 330 Pendleton, OR 97801
Telephone: (541) 276-4063

Issued pursuant to ORS 468B.050 and the Federal Clean Water Act

ISSUED TO:

Owyhee Ditch Company
553 Onion Avenue
Ontario, Oregon 97914

SOURCES COVERED BY THIS PERMIT:

Type of Waste
Acrolein-based and xylene-based
herbicide residuals

PLANT TYPE AND LOCATION:

Irrigation System
Ontario, Oregon

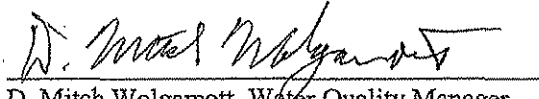
RECEIVING SYSTEM INFORMATION:

Basin: Middle Snake River
Sub-Basin: Owyhee
Streams: Snake River and Owyhee River
Hydro Code: 34=OWYH
County: Malheur

EPA Reference No.: OR0041688

Issued in response to Application No. 985620 received July 2, 2002.

This permit is issued based on the land use findings in the permit record.



D. Mitch Wolgamott, Water Quality Manager
Eastern Region - Pendleton

October 10, 2002; modified June 9, 2005;
reconsidered March 15, 2006
Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to discharge acrolein-based and xylene-based herbicide residuals 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 discharge to an underground injection control system.

SCHEDULE A
HERBICIDE RESIDUAL LIMITATIONS, REQUIRED MANAGEMENT PRACTICES,
AND PUBLIC NOTICE REQUIREMENTS

1. Herbicide Residual Limitations

- a. Herbicide residual limitation not to be exceeded outside of the treatment area during the treatment period or after the treatment period has elapsed:

- i) Following acrolein-based herbicide application

Parameter	Limitations - Daily Maximum
Acrolein	21 µg/l

- ii) Following xylene-based herbicide application

Parameter	Limitations - Daily Maximum
Xylene	1.3 mg/L

- b. No acrolein or xylene-based herbicide residuals may be present within the irrigation system outside of the treatment area during the treatment period or within the irrigation system and treatment area after the treatment period has elapsed that cause or contribute to a violation of water quality standards adopted in OAR 340-041 for the Middle Snake River basin and as provided for in OAR 340-045-0080.

2. Required Management Practices

- a. **Application into Irrigation Systems** The permittee may only apply acrolein-based and xylene-based aquatic herbicides into the treatment area of the irrigation system. These herbicides may not be applied to natural waters and may not be applied upstream of any delivery point for water used for potable purposes.
- b. **Federal and State Requirements** Compliance with this permit is not intended to relieve the permittee from compliance with other federal and state requirements, such as the Endangered Species Act (e.g., U.S. Fish and Wildlife Service Biological Opinions), FIFRA requirements, or Oregon Department of Agriculture applicator licensing requirements.
- c. **Aquatic Herbicide Usage** In order to reduce the total amount of acrolein-based herbicide applied into the irrigation system, the permittee may only apply acrolein-based herbicide when the size of pondweed or other aquatic plants have reached an average length of 3 to 6 inches or floating or non-floating masses of algae are visible. Xylene-based herbicide may be used only when plant growth in the irrigation system restricts water flow to the extent that water cannot be delivered consistent with good water supply management. Prior to applying herbicide, the permittee must inspect system for plant growth and document in its application log that plant growth has reached the levels described above. The permittee must document this inspection in their application log.
- d. **Licensed Applicator** The permittee must ensure that all aquatic herbicide applications be performed by a licensed applicator who is familiar with the application requirements and risks of aquatic herbicides.
- e. **Application Log** The permittee must maintain a log for each aquatic herbicide application with the following minimum information:

- i) Date of application
 - ii) Location of application
 - iii) Name of applicator
 - iv) List of gates in treatment area that discharge to natural waters
 - v) When gates are closed, the time of closure and the time reopened (if using turnover time as specified in Schedule A.2, include flow measurements or calculations used to determine turnover of at least two times)
 - vi) Application details (e.g., water temperature, total flow, time application started and stopped, gallons of aquatic herbicide applied, dosage rate, concentration, application rate, orifice size, and nitrogen pressure)
 - vii) Description of treatment area
 - viii) Expected duration of the treatment period
- f. **Water Users** When requested to do so in writing by a water user, the permittee must stop water deliveries during aquatic herbicide application to that user.
- g. **Access to Application Schedule** The permittee must provide a phone number that interested persons may call to get more information from the permittee. The permittee must provide the caller with its most current application schedule and let the caller know if schedule is subject to change.
- h. **Targeting Water Use Rate During Treatments** The permittee must reduce water flow to the extent reasonably practicable in the treatment area to match the target rate for water use during the treatment period.
- i. **Inspection and Repair of Gates** Prior to the application season or each application, the permittee must assure that all gates in the treatment area are in working order. The permittee must document this inspection and any repairs in an inspection log.
- j. **Closure of Gates that may Discharge to Natural Waters** The permittee must:
- i) **Close and Lock** Close and lock each gate within the treatment area that discharges to natural waters at least two hours before the aquatic herbicide wave is expected to reach that gate. For any lateral canal that discharges to natural waters, either the point of discharge to natural waters must be closed or the turnout to the lateral canal from the main canal must be closed.
 - (1) In making this calculation, the permittee must consider the volume and velocity of flow in the treatment area and the distance between the point aquatic herbicide is applied and the gate to be closed. The fastest velocity of flow, as averaged through the vertical water column, in a representative cross-section of the channel must be used. When channel configurations vary, calculations may be made on different sections of the treatment area to determine the time when the acrolein-based herbicide wave is expected to reach the gate.
 - (2) These calculations must be documented in the application log.
 - ii) **Tag Gates** Attach an easily visible tag to each water user delivery point that cannot be locked. The tag must state that the delivery point has been closed at the request of the water user and may be reopened only by the permittee's personnel.
- k. **Inspection Requirements** During the period when herbicide levels in the irrigation system are likely to be above the discharge limitation, the permittee must inspect water user delivery points at least once a day that have been closed as requested by the water user.
- l. **Reopening of Gates** The permittee may only reopen gates when aquatic herbicide is no longer present at levels above its discharge limitation. This determination may be made using on of the following:
- i) **Holding** When applying acrolein-based herbicide only, the permittee can wait for expiration of the holding period as specified in the EPA-approved FIFRA label.

- ii) **Testing** For xylene-based herbicide only, the permittee must collect and analyze representative samples of water within the treatment area to demonstrate that treated water is no longer present prior to discharge. At least two samples must be collected: the first upstream of the open delivery point farthest from the application site within the treatment area, and the second at the midpoint between the most downstream point in the treatment area and the application site. If the treatment area consists of the main canal and laterals, sampling may be conducted in the main canal or in a lateral, whichever best fits the description of the two required sampling locations. For detention basins, at least two samples must be collected: the first near the discharge gate and the second near the inflow to the detention basin.
- iii) **Turnover** Alternatively, for acrolein-based and xylene-based herbicides, the permittee calculates the rate at which the volume of water in the treatment area is replaced by fresh, untreated water based on the portion of the treatment area where such turnover is the slowest (the slowest velocity of flow, as averaged through the vertical water column, in a representative cross-section of the channel must be used). The permittee may not open the gate(s) until the water in the treatment area has turned over at least two times.
 - (1) The permittee may calculate turnover rates for individual laterals that are fed from the main canal and open gates in these laterals if the volume of water in the lateral has turned over at least two times. For example, a lateral closer to the aquatic herbicide application point may turnover more quickly than the main canal or a lateral located farther away from the application point.
 - (2) In making this calculation, the permittee must consider the distance between the point aquatic herbicide is applied and the gate farthest from the application point to be reopened.
 - (3) Turnover calculations may begin once aquatic herbicide is no longer being applied into the irrigation ditch and water treated with aquatic herbicide is being replaced with fresh untreated water.
 - (4) These calculations and measurements must be documented in the application log.

3. **Public Notice Requirements**

- a. **Notice of Intended Use** For every calendar year, prior to the permittee's first application of aquatic herbicide, the permittee must notify:
 - i) Each water user within its district by general newsletter, special notice enclosed with a regular assessment, individual letter or publication in one or more newspapers with a combined circulation area encompassing the area in which the irrigation system is located, and
 - ii) The general public in the area served by the permittee's system by publication in one or more newspapers with a combined circulation area encompassing the area in which the irrigation system is located.
- b. **Requirements for Notice** The permittee must include the following in the notice:
 - i) A statement of the permittee's intent to use acrolein-based, xylene-based or copper-based herbicide, purpose of use, general description of where it will be used, general time period of expected use, and any water use restrictions or precautions during treatment.
 - ii) A phone number that interested persons may call to get more information from the permittee.
 - iii) A statement indicating that the user may request in writing that water deliveries during aquatic herbicide application be stopped.

4. **Notice to Dairy Farmers** The permittee must provide reasonable adequate notice prior to each application of acrolein-based herbicide to water users with dairy animals. The purpose of this notice is to prevent dairy animals from drinking treated water and to allow water users with dairy animals sufficient time to move their animals away from treated areas.

SCHEDULE B
MINIMUM MONITORING AND REPORTING REQUIREMENTS
(unless otherwise approved in writing by the Department)

1. Monitoring Requirements

The permittee must monitor aquatic herbicide application activities allowed by this permit as follows.

- a) Discharges to natural waters (after gates to natural waters have been opened)
 - i) Following acrolein-based herbicide applications:

Item or Parameter	Minimum Frequency	Minimum Detection Level	Type of Sample
Estimate of Flow	Once per occurrence	N/A	Measurement or Calculation
Acrolein ²	See Note 1	2 µg/l	Grab

- ii) Following xylene-based herbicide applications:

Item or Parameter	Minimum Frequency	Minimum Detection Level	Type of Sample
Estimate of Flow	Once per occurrence	N/A	Measurement or Calculation
Xylene ³	See Note 1	2 µg/l	Grab

¹Monitoring must be conducted on the first aquatic herbicide application for each month in 2003. Separate samples must be taken for the first acrolein-based and the first xylene-based aquatic herbicide applications during each month in 2003. Monitoring may be reduced to the first application of the irrigation season for the following years provided discharge limitations are met in 2003. Monitoring must be performed on the discharge from the reopened gate that is nearest to natural waters within 30 minutes of opening the gate.

²Acrolein testing must follow the procedures in 40 CFR §136 (EPA Method 624) or Solid Waste Method 8260

³Xylene testing must follow procedures in 40 CFR §136 (EPA Method 624)

- b) No monitoring for acrolein or xylene is required if the irrigation system does not spill or return flow to natural waters following aquatic herbicide applications.

2. Reporting Requirements

- a) **Monitoring Data** Monthly monitoring reports are not required if the irrigation system is operated such there is no discharge to natural waters. If application of aquatic herbicide results in a discharge to natural waters, a monthly monitoring report for that particular month must be submitted. Monitoring results must be reported on approved forms. Reports must be submitted to the Department's Eastern Region – Pendleton office by the 15th day of the following month.
- b) **Annual Report** The permittee must submit an annual report to the Department's Eastern Region – Pendleton office by December 31 of each year of the total amount of each aquatic herbicide applied during the calendar year, name of aquatic herbicide, EPA Registration Number, and formulation information.

SCHEDULE C
COMPLIANCE CONDITIONS AND SCHEDULES

1. **Written Contingency Plan** Within 30 days of permit issuance, the permittee must submit its written contingency plan required by Schedule D.2 to the Department's Eastern Region – Pendleton office for review and approval.
2. **Integrated Aquatic Vegetation Management Plan** Within 180 days of permit issuance, the permittee must submit an Integrated Aquatic Vegetation Management plan (or Integrated Pest Management plan that addresses aquatic vegetation) required by Schedule D.3 to the Department's Eastern Region – Pendleton office for review and approval.
3. **Fish Control Evaluation** The permittee must determine if there are fish in the irrigation system that are being affected by aquatic herbicide application. The findings must be reported to the Department's Eastern Region – Pendleton Office within one year of permit issuance date. If fish are being affected by aquatic herbicide application, the permittee must submit a plan and implementation schedule to provide an effective means of controlling fish entry into portions of its irrigation system that are being treated with aquatic herbicide. The plan and implementation schedule must be submitted to the Department's Eastern Region – Pendleton Office for review and approval within two years of permit issuance date.
4. The permittee is expected to meet the compliance dates that have been established in this schedule. Either prior to or no later than 14 days following any lapsed compliance date, the permittee must submit to the Department a notice of compliance or noncompliance with the established schedule. The Director may revise a schedule of compliance if he determines good and valid cause resulting from events over which the permittee has little or no control.

**SCHEDULE D
SPECIAL CONDITIONS**

1. **Record Keeping** The permittee must record and maintain the following information and provide it to the Department upon request:
 - a) Records for each licensed applicator to demonstrate that Schedule A.2.d has been met.
 - b) Application logs as required in Schedule A.2.e.
 - c) Copy of the public notice required in Schedule A.3.
 - d) Inspection and repair of gates and flow calculations used to determine when gates are to be closed and reopened.

2. **Written Contingency Plan**
 - a) The permittee must have an approved written contingency plan for the prevention, containment, and handling of spills and unplanned discharges from the application, storage and transportation of aquatic herbicide in force at all times. At a minimum, the contingency plan must contain the following:
 - i) Description of employee orientation and education program.
 - ii) Description of the reporting system that will be used to notify responsible managers and legal authorities in the event of a herbicide spill.
 - iii) Procedures that will be taken to prevent, contain or clean up spills of aquatic herbicides.
 - iv) Emergency phone numbers for the Department and Oregon Emergency Management Division,
 - v) Name and telephone number of a hazardous material response contractor.
 - vi) Name, address, and telephone numbers of nearest hospitals to the permittee.

 - b) The permittee must also:
 - i) Ensure that the licensed applicator has a copy of the contingency plan on site during application of aquatic herbicide.
 - ii) Maintain a continuing program of employee orientation and education must be maintained to ensure awareness of the necessity for proper action in the event of a spill or accident.
 - iii) Report all spills exceeding the reportable quantity of OAR 340-108-0010 must be reported to the Oregon Emergency Management Division.
 - iv) Update the plan as needed.

3. **Integrated Aquatic Vegetation Management Plan** The permittee must have an integrated aquatic vegetation management plan (or integrated pest management plan that addresses aquatic vegetation) to examine the possibility of alternatives to reduce the need for aquatic pesticides. In developing its plan, the permittee must ensure that:
 - a) Herbicides are used only after the assessment of all available control technologies.
 - b) Site-specific action thresholds for aquatic plant removal are determined.
 - c) The least amount of the herbicide needed to effectively control the aquatic weeds is added to the irrigation system.
 - d) The latest chemical control technologies are considered and used if technically and economically feasible.
 - e) An evaluation of the infrastructure to identify changes that could be made to reduce growth of aquatic vegetation is performed.
 - f) A schedule for implementing the plan is developed if necessary.

4. **Notification to Department** The permittee must notify the Department's Eastern Region -- Pendleton office at (541) 276-4063 in accordance with the response times contained in Schedule F of this permit of any malfunction so that corrective action can be coordinated between the permittee and the Department.

5. **Definitions**
 - a) *Herbicide Residuals* means the aquatic herbicide or by-product resulting from the application of aquatic herbicide that is found outside of the treatment area or persist after the specified treatment period.

- b) ***Irrigation System*** means a controlled system consisting primarily of manmade canals, ditches and ponds designed and operated for the delivery or management of water for irrigation purposes.
- c) ***Natural Waters*** means surface waters outside of the irrigation system.
- d) ***Treatment Area*** means the area, as defined by the permittee, of the irrigation system in which aquatic herbicide will be applied to control weeds.
- e) ***Treatment Period*** means the time, as estimated by the permittee, during which the aquatic herbicide is applied and controlling weeds within the treatment area.

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.

In addition, a person who unlawfully pollutes water as specified in ORS 468.943 or ORS 468.946 is subject to criminal prosecution.

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 CONTROLS1. 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 Facilitiesa. 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 judgement 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 causes(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. Representative Sampling

Sampling and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit and shall be taken, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Director.

2. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than ± 10 percent from true discharge rates throughout the range of expected discharge volumes.

3. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

4. Penalties of Tampering

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be

punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person, punishment is a fine not more than \$20,000 per day of violation, or by imprisonment of not more than four years or both.

5. Reporting of Monitoring Results

Monitoring results shall be summarized each month on a Discharge Monitoring Report form approved by the Department. The reports shall be submitted monthly and are to be mailed, delivered or otherwise transmitted by the 15th day of the following month unless specifically approved otherwise in Schedule B of this permit.

6. Additional Monitoring by the 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 results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report. Such increased frequency shall also be indicated. For a pollutant parameter that may be sampled more than once per day (e.g., Total Chlorine Residual), only the average daily value shall be recorded unless otherwise specified in this permit.

7. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean, except for bacteria which shall be averaged as specified in this permit.

8. Retention of Records

Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records of all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

9. Records Contents

Records of monitoring information shall include:

- a. The date, exact place, time and methods of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

10. 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 REQUIREMENTS1. 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 Information

A person who supplies the Department with false information, or omits material or required information, as specified in ORS 468.953 is subject to criminal prosecution.

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.