



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 7, 2020

Susan Poulosom, Manager
NPDES Permits Unit
United States Environmental Protection Agency - Region 10
1200 Sixth Avenue, Suite 155, OWW
Seattle, WA 98101

**RE: Clean Water Act Section 401 Final Certification
EPA National Pollutant Discharge Elimination System
Permit No. WA0026778, USACE – Bonneville Project**

Dear Susan Poulosom:

This letter is in response to the U.S. Environmental Protection Agency's (EPA) letter, dated March 17, 2020, requesting Washington State Department of Ecology (Ecology) provide a Clean Water Act Section 401 Certification for the Final National Pollutant Discharge Elimination System (NPDES) Permit (WA-0026778) for **United States Army Corps of Engineers– Bonneville Project**.

On April 10, 2020, Ecology received notification of EPA's intent to finalize the Temperature TMDL in the Columbia and Lower Snake Rivers after the 60-day certification period ends. Ecology has decided to move forward with the 401 certification process at this time. Conditions are structured so that EPA must incorporate the TMDL's requirements into the permits once the TMDL is approved. Doing so provides regulatory certainty and ensures that steps will be taken to manage sources of heat that contribute to increased river temperatures.

With this Section 401 Water Quality Certification, Ecology certifies NPDES Permit No. WA0026778 (Permit) complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. **This certification is subject to the conditions contained in the enclosed Order No. 18146.**

The Enclosed Order may be appealed by following the procedures described in the Order.

Susan Poulson

May 7, 2020

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If you have any questions or would like to discuss these matters further, please contact Eleanor Ott, PE at eleanor.ott@ecy.wa.gov or (360) 407-6433.

Sincerely,



Vincent McGowan, P.E.
Water Quality Program Manager

Enclosure

cc: Eleanor Ott, PE, Ecology
Jennifer Wu, Permit Writer, Region 10 EPA
Loree' Randall, SEA Program, Ecology
Jeff Killelea, Acting Section Manager, Ecology
ecyrefedpermits@ecy.wa.gov

By Certified Mail: 9489 0090 0027 6066 2468 08

IN THE MATTER OF GRANTING A) ORDER # 18146
WATER QUALITY) Bonneville Project located in Cascade Locks,
CERTIFICATION TO) Oregon (NPDES Permit No. WA0026778).
U.S. Environmental Protection Agency)
in accordance with 33 U.S.C. 1341)
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)
))
))

TO: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
ATTN: Susan Poulsom, Manager
1200 Sixth Ave, Suite 155, OWW
SEATTLE, WA 98101

On March 18, 2020, EPA requested a Section 401 Water Quality Certification (Certification) for the National Pollutant Discharge Elimination System (NPDES) permit authorizing discharges to a water of the state (defined in RCW 90.48) from the Bonneville federal facility located in Cascade Locks. This Certification imposes additional conditions, beyond the conditions of the NPDES permit, on the Applicant or Permittee.

On MAY 04, 2015, the U.S. ARMY CORPS OF ENGINEERS (Corps) submitted a NPDES Application to the U.S. Environmental Protection Agency (EPA) requesting a discharge permit for the Bonneville Project hydroelectric dam. In response to the Corps application EPA drafted a NPDES permit to cover the discharge of pollutants from the hydroelectric generating facility into waters of Washington State from cooling water, equipment, floor drains, facility maintenance water, and backwash strainer water on cooling water intakes into the Columbia River at Exit 40 along Interstate 84, Cascade Locks, Multnomah County, Oregon 97014; Section 21, Township 2N, Range 7E. In addition to the conditions of the NPDES permit, this Certification establishes conditions necessary to protect water quality in river flow, including the dam forebay and pool, spill and generation tailrace water, and flow through fish passage structures that shall be incorporated¹ into the final permit.

The project proposes to monitor discharges from this facility related to cooling water, floor drains, and equipment/facility related water, and backwash strainers on cooling water intake structures. In all, there are 23 outfalls discharging various volumes ranging from 0.86 MGD to 10 MGD. All outfalls discharge to the Lower Columbia River on the Washington State side.

This Certification is based on the terms and conditions contained in the proposed draft NPDES permit. If EPA issues a final NPDES permit that contains any changes from the draft NPDES permit and does not include all requirements outlined in this Certification, EPA’s request for Certification is denied and EPA must request a new Certification for the final NPDES permit.

¹ Foot note with CWA requirement to incorporate WQC conditions.

In accordance with 40 CFR 124.53(e)(3), Ecology has determined that no condition in the draft NPDES permit may be made less stringent without violating requirements in Washington State law. Ecology reserves the right to modify or revoke this Certification if there is no longer reasonable assurance that there will be compliance with 33 U.S.C §§ 1311, 1312, 1313, 1316, 1317, or appropriate conditions of state law due to changes in the operation of the facility, changes in the characteristics of the waters into which discharges occur, changes in water quality criteria applicable to those waters, or changes to applicable effluent limits or other requirements.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined EPA's request for CWA Section 401 certification of the draft permit pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 302, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.
4. Conformance with Washington's prohibition on discharges that cause or tend to cause pollution of waters of the state of Washington. RCW 90.48.080

WATER QUALITY CERTIFICATION CONDITIONS:

With this Certification and through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to EPA subject to the conditions within this Order and NPDES Permit No. WA0026778.

Certification of EPA proposed final permits does not authorize the Permittee to exceed applicable state surface water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC), standards in the EPA's Revision of certain Federal water quality criteria applicable to Washington (40 CFR 131.45), and other appropriate requirements of State law.

A. General Conditions

1. For purposes of this Order, the term “Applicant” shall mean U.S. Environmental Protection Agency, and its agents, assignees and contractors.
2. For purposes of this Order, the permit “Permittee” shall mean U.S. Army Corps of Engineers – Bonneville Project
3. The Applicant shall enforce the permit and ensure that the Permittee complies with the conditions of the permits, which shall include the conditions of this Order, at all times.
4. The Permittee must provide access to the facility upon request by Ecology personnel for site inspections, monitoring, and/or necessary data collection, to ensure that conditions of this Order are being met.
5. Nothing in this Order waives Ecology’s authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental orders, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
6. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48) or the federal Clean Water Act, Ecology may issue an amendment to this Certification to incorporate any such changes or amendments applicable to this project.
7. Failure of any person or entity to comply with this Certification may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Certification.

B. Water Quality

1. This Certification does not authorize exceedances of water quality standards established in WAC 173-201A.
2. Water Quality Standards Attainment: (RCW 90.48.080 and WAC 173-201A-510(5)).
 - a. In addition to the draft NPDES permit requirements for temperature monitoring at most outfalls, the Permittee must implement temperature control strategies and meet the load allocations in the Columbia and Lower Snake Rivers Temperature Total Maximum Daily Load once issued. EPA must include a re-opener clause, if necessary, in the final permit to incorporate TMDL wasteload allocations. (RCW 90.48.080)
 - b. The Permittee must comply with total dissolved gas standards in WAC 173-201A-200(1)(f) or any future modification to the standards thereof.

- c. The Permittee must consult with Ecology to develop a water quality attainment plan (WQAP) per the conditions below:
 - i. The WQAP shall include all applicable requirements in WAC 173-201A-510(5), *Compliance schedule for Dams*, and must include a detailed strategy for achieving Washington's water quality standards for temperature and associated designated uses, including but not limited to, conditions in fish bypass systems of the dam.
 - ii. The Permittee must provide the scope of the WQAP to Ecology for review one year after the permit effective date.
 - iii. The Permittee must provide the final WQAP to Ecology for approval within 2 years of the permit effective date.
 - d. The Permittee must submit a progress report to Ecology for approval in year 6. The Permittee must submit a summary report to Ecology for approval 9 years after the original permit effective date and prior to the end of the ten year dam compliance period.
 - e. Ecology reserves the right to modify this Certification to incorporate additional compliance schedules for purposes of meeting the WQAP and applicable water quality criteria. (RCW 90.48.080 and WAC 173-201A-510(5)).
3. Quality Assurance Plan (QAP): (RCW 90.48.080)
EPA must review and approve all QAP requirements in Section II.A of the permit and any subsequent modification to the QAP.
4. Best Management Practices (BMP) Plan: (RCW 90.48.080)
Use of a BMP Plan infers that there is reasonable potential to violate water quality standards. Ecology concurs that BMPs are an appropriate mechanism for purposes of source control and eliminating toxic pollutants into receiving waters. However, elements of the BMP Plan, as written in the draft NPDES permit, are not quantifiable nor do they provide assurance that BMP implementation will be adaptively managed. Therefore, the following conditions related to the BMP Plan must be included in the final permit:
- a. The BMP Plan must be subject to EPA review and approval. As a permit submittal, the initial report and any annual updates must be reviewed and approved by EPA to ensure the plan is comprehensive, complete and accurate.
 - b. Plan requirements include a provision for reporting sampling data. This sampling must be designed in a way to quantify source identification and reductions in order to substantiate the adaptive management process that makes a BMP approach successful. The sample design and data analysis, including methods and method reporting levels, must be included in the QAP (Section II.A) and updated as necessary.
 - c. The annual report submittal requirement in Section II.B.4 of the permit must also include the adaptive management procedures implemented based on the results of all monitoring used to evaluate the BMP.

5. Environmentally Acceptable Lubricants: (RCW 90.48.080)
EPA must review and approve all EAL annual reports. The initial EAL report must be reviewed and approved by both EPA and Ecology to ensure the plan is comprehensive, complete, accurate, and concurs with the state's interpretation of technical infeasibility.
6. PCB Management Plan: (RCW 90.48.080 and 90.48.520)
EPA and Ecology must review and approve the initial PCB Management Plan. Ecology concurs that BMPs are an appropriate mechanism for purposes of source control and eliminating PCB release into receiving waters. As a permit submittal, any annual updates must be reviewed and approved by EPA to ensure the plan is comprehensive, complete and accurate.
7. Cooling Water Intake Structures: (90.48.080)
 - a. EPA must review and approve the cooling water intake structure (CWIS) annual report. Twenty of the twenty-three permitted outfalls are for cooling water with discharge flows totaling approximately 22 million gallons per day (MGD). The 2014 316(b) rule requires implementation of best technologies available for minimization of fish impingement mortality and adverse effects from entrainment (40 CFR 125.94(c) and 40 CFR 125.94(f), respectively).
 - b. The initial CWIS annual report must be submitted to and reviewed by Ecology. Given that no information related to the CWIS design, including screen design, was provided with the NPDES permit application, this first annual report must include information on all cooling water intake structures that address the missing application submittal requirements of 40 CFR 122.21(r)(2) and (3) and applicable provisions of paragraphs (4), (5), (6), (7) and (8). This information is necessary for concurrence with EPA's best technology available (BTA) determination.
 - c. The Permittee must develop an operation and maintenance manual that includes procedures for evaluating both impingement and entrainment related to the CWIS. This does not include the intake for hydroelectric generating waters. Ecology reserves the right to reopen this certification in the event we do not agree with EPA's BTA determination based on design information included in the first annual report. (40 CFR 122.21(r))
 - d. EPA's rules at 40 CFR 125.98(b)(1) also require that the final NPDES permit specifically include the following language "Nothing in this permit authorizes take for the purposes of a facility's compliance with the Endangered Species Act". The final permit must include this condition. (WAC 173-201A-200(1))

C. Timing Requirements

1. This Certification is valid until the expiration date including any administrative extension or termination date of NPDES Permit No. WA0026778.

D. Notification Requirements

1. The Applicant shall enforce and the Permittee must comply with all the reporting and notification conditions of the NPDES permit, including conditions of the permit requiring the Permittee to report to Ecology.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Eleanor Ott, PE
Department of Ecology
P.O. Box 47600
Olympia, WA 98503-7600
(360) 407-6433
eleanor.ott@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
www.eho.wa.gov/Boards_PCHB.aspx
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**
<http://www.ecy.wa.gov/biblio/wac173204.html>
- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173200.html>
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173201A.html>

SIGNATURE



Vincent McGowan, P.E.
Water Quality Program Manager
Department of Ecology
State of Washington

United States Environmental Protection Agency
 Region 10
 1200 Sixth Avenue Suite 155
 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 U.S.C. §1251 *et seq.*, as amended by the Water Quality Act of 1987, P.L. 100-4, the “Act”,

Bonneville Project
 Exit 40, Interstate 84
 Cascade Locks, Oregon 97014

is authorized to discharge from the Bonneville Project located in Cascade Locks, Oregon, at the following location(s):

Outfall	Receiving Water	Latitude	Longitude
001	Columbia River	45° 38' 57" N	121° 56' 12" W
002	Columbia River	45° 38' 57" N	121° 56' 13" W
003	Columbia River	45° 38' 56" N	121° 56' 12" W
004a	Columbia River	45° 38' 56" N	121° 56' 14" W
004b	Columbia River	45° 38' 56" N	121° 56' 14" W
005a	Columbia River	45° 38' 55" N	121° 56' 15" W
005b	Columbia River	45° 38' 55" N	121° 56' 15" W
006a	Columbia River	45° 38' 55" N	121° 56' 15" W
006b	Columbia River	45° 38' 55" N	121° 56' 15" W
007a	Columbia River	45° 38' 54" N	121° 56' 16" W
007b	Columbia River	45° 38' 54" N	121° 56' 16" W
008a	Columbia River	45° 38' 53" N	121° 56' 17" W
008b	Columbia River	45° 38' 53" N	121° 56' 17" W
009a	Columbia River	45° 38' 53" N	121° 56' 18" W
009b	Columbia River	45° 38' 53" N	121° 56' 18" W
010a	Columbia River	45° 38' 52" N	121° 56' 19" W
010b	Columbia River	45° 38' 52" N	121° 56' 19" W
011a	Columbia River	45° 38' 51" N	121° 56' 20" W
011b	Columbia River	45° 38' 51" N	121° 56' 20" W
012	Columbia River	45° 38' 55" N	121° 56' 14" W
013	Columbia River	45° 38' 51" N	121° 56' 20" W
014	Columbia River	45° 38' 50" N	121° 56' 19" W
015	Columbia River	45° 38' 51" N	121° 56' 20" W

Draft Permit – Does Not Authorize Discharge

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

This permit shall become effective *insert date*

This permit and the authorization to discharge shall expire at midnight, *insert date*

The permittee shall reapply for a permit reissuance on or before *insert date*, 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 day of

Daniel D. Opalski, Director
Water Division

Schedule of Submissions

The following is a summary of some of the items the permittee must complete and/or submit to EPA during the term of this permit:

Item	Due Date
1. Discharge Monitoring Reports (DMR)	DMRs are due monthly and must be postmarked on or before the 20 th day of the month.
2. Quality Assurance Plan (QAP)	The permittee must provide EPA and Washington Department of Ecology (Ecology) with written notification that the Plan has been developed and implemented within 180 days after the effective date of the final permit (see II.A.). The Plan must be kept on site and made available to EPA and Ecology upon request.
3. Best Management Practices (BMP) Plan	The permittee must provide EPA and Ecology with written notification that the Plan has been developed or updated, and implemented within 180 days after the effective date of the final permit (see II.B.). The Plan must be kept on site and made available to EPA and Ecology upon request.
4. BMP Annual Report	The permittee must provide the EPA and Ecology a BMP Annual Report by December 31 of each year (see II.B.4.b). The Report must be kept on site and made available to EPA and Ecology upon request.
5. EAL Annual Report	The permittee must provide the EPA and Ecology an EAL Annual Report by December 31 of each year (see II.C.). The Plan must be kept on site and made available to the EPA and Ecology upon request.
6. CWIS Annual Report	The permittee must provide the EPA and Ecology a CWIS Annual Report by December 31 of each year (see II.E.). The Annual Report must be kept on site and made available to the EPA and Ecology upon request.
7. PCB Management Plan and PCB Annual Report	The permittee must provide the EPA and Ecology a PCB Management Plan within the first year of the effective date of the permit (see II.D.). The Plan and Annual Report must be kept on site and made available to the EPA and Ecology upon request.
8. Temperature Data Report	The permittee must provide the EPA and Ecology a Temperature Data Report with the next permit application (see I.B.11.a). The Data Report must include the monthly instantaneous maximum, the maximum daily average, and 7-day average daily maximum (7-DADM) influent and effluent temperatures measured in each outfall.

- | | |
|--|--|
| 9. Monitoring Records | Monitoring records must be retained for a period of at least five years (see III.F.). |
| 10. 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 III.G.). |
| 11. NPDES Application Renewal | The application must be submitted at least 180 days before the expiration date of the permit (see V.B.). |

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I. Limitations and Monitoring Requirements

A. Discharge Authorization

During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfalls specified herein to the Columbia River, 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 is prohibited from discharging hazardous material in concentrations that pose a threat to public health or impair the beneficial uses of the receiving water.
2. The permittee is prohibited from discharging toxic substances in concentrations that impair the designated beneficial uses of the receiving water.
3. The permittee is prohibited from discharging deleterious materials in concentrations that impair the beneficial uses of the receiving water.
4. The permittee is prohibited from discharging a visible oil sheen, floating, suspended or submerged matter of any kind in concentrations causing nuisance or objectionable conditions or that may impair the beneficial uses of the receiving water. There shall be no foam other than in trace amounts.

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 a visible oil sheen, floating, suspended or submerged matter. The log must be retained and made available to the EPA or Ecology.

5. The permittee is prohibited from discharging excess nutrients that can cause visible slime growth or other nuisance aquatic growths impairing beneficial uses of the receiving water.
6. The permittee is prohibited from discharging polychlorinated biphenyl (PCB) compounds such as those commonly used for transformer fluid. See Part II.D, PCB Management Plan.
7. Solid materials shall be removed from the trash racks or intake screens and disposed of in accordance with the procedures developed in Appendix B.9 of this Permit.
8. The permittee must limit and monitor discharges from all outfalls as specified in Tables 1, 2 and 3 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.

9. Monitoring for each outfall is to be conducted and reported in accordance with Part III.

Table 1. Effluent Limitations and Monitoring Requirements for Outfalls 001, 002, 003, 004a, 004b, 005a, 005b, 006a, 006b, 007a, 007b, 008a, 008b, 009a, 009b, 010a, 010b, 011a, 011b, and 013: Fish Units Non-Contact Cooling Water, Main Turbine Units Non-Contact Cooling Water, Main Turbine Units Thrust Bearing Water and HVAC Chillers

Parameter	Units	Effluent Limitations	Monitoring Requirements		
			Sample Location	Sample Frequency	Sample Type
Parameters With Effluent Limits					
pH	std units	Between 7 – 8.5	Effluent	1/week or 1/month ¹	Grab
Oil and grease	mg/L	5 (daily maximum)	Effluent	1/week or 1/month ¹	Grab
Report Parameters					
Flow	mgd	Report	Effluent	1/month	Measurement
Temperature	°C	Report 7DADM ² , daily maximum, and daily average.	See Paragraph I.B.10.	Continuous or 1/month ³	Measurement/ Calculation
Visible Oil Sheen, Floating, Suspended, or Submerged Matter	--	See Paragraph I.B.4 of this permit.			Visual Observation
Notes					
<ol style="list-style-type: none"> 1. In the first year of the permit, if there are no exceedances of the pH limit or detection of oil and grease, the required monitoring frequency for that pollutant is reduced to 1/month. If there are exceedances/detections in the first year of the permit, the frequency will remain 1/week for the remainder of the permit term. 2. 7-day average daily maximum. This is a rolling 7-day average calculated by taking the average of the daily maximum temperatures. The 7-day average daily maximum for any individual day is calculated by averaging that day's daily maximum temperature with the daily maximum temperatures of the three days prior and the three days after that date. 3. See Paragraphs I.B.10 and I.B.11. In the first six months of the effective date of the permit, monthly sampling is required, Continuous monitoring is required after the first six months of the effective date of the permit. 					

Table 2. Effluent Limitations and Monitoring Requirements for Outfalls 014 and 015:
Unwatering Sump and Drainage Sump

Parameter	Units	Effluent Limitations	Monitoring Requirements		
			Sample Location	Sample Frequency	Sample Type
Parameters With Effluent Limits					
pH	std units	Between 7 – 8.5	Effluent	1/week or 1/month ¹	Grab
Oil and grease	mg/L	5 (daily maximum)	Effluent	1/week or 1/month ¹	Grab
Report Parameters					
Flow	mgd	Report	Effluent	1/month	Measurement
Temperature	°C	Report 7DADM ² , daily maximum, and daily average.	Effluent	Continuous or 1/month ³	Measurement/ Calculation
Visible Oil Sheen, Floating, Suspended, or Submerged Matter	--	See Paragraph I.B.4 of this permit.			Visual Observation
Notes					
<ol style="list-style-type: none"> In the first year of the permit, if there are no exceedances of the pH limit or detection of oil and grease, the required monitoring frequency for that pollutant is reduced to 1/month. If there are exceedances/detections in the first year of the permit, the frequency will remain 1/week for the remainder of the permit term. 7-day average daily maximum. This is a rolling 7-day average calculated by taking the average of the daily maximum temperatures. The 7-day average daily maximum for any individual day is calculated by averaging that day's daily maximum temperature with the daily maximum temperatures of the three days prior and the three days after that date. See Paragraphs I.B.10 and I.B.11. In the first six months of the effective date of the permit, monthly sampling is required, Continuous monitoring is required after the first six months of the effective date of the permit. 					

Table 3. Effluent Limitation and Monitoring Requirements for Outfalls 012: Oil Water Separator

Parameter	Units	Effluent Limitations	Monitoring Requirements		
			Sample Location	Sample Frequency	Sample Type
Parameters With Effluent Limits					
pH	std units	Between 7 – 8.5	Effluent	1/week or 1/month ¹	Grab
Oil and grease	mg/L	5 (daily maximum)	Effluent	1/week or 1/month ¹	Grab
Report Parameters					
Flow	mgd	Report	Effluent	1/month	Measurement
Visible Oil Sheen, Floating, Suspended, or Submerged Matter	--	See Paragraph I.B.4 of this permit.			Visual Observation
<u>Notes</u>					
1. In the first year of the permit, if there are no exceedances of the pH limit or detection of oil and grease, the required monitoring frequency for that pollutant is reduced to 1/month. If there are exceedances/detections in the first year of the permit, the frequency will remain 1/week for the remainder of the permit term.					

10. The permittee must comply with the following requirements for temperature monitoring and follow Part I.B.11 for continuous temperature monitoring:
- a) The permittee must select Outfall 001 or Outfall 002 for continuous temperature monitoring in influent and effluent. For the remaining outfall, the permittee must collect temperature samples once per month in effluent.
 - b) The permittee must conduct continuous temperature monitoring at Outfalls 003, 013, 014, and 015 in effluent.
 - c) The permittee must select two outfalls from the following list for continuous temperature monitoring in influent and effluent: Outfalls 004a, 005a, 006a, 007a, 008a, 009a, 010a, 011a. For the remaining outfalls, the permittee must collect temperature samples once per month in effluent.
 - d) The permittee must select two outfalls from the following list for continuous temperature monitoring in influent and effluent: Outfalls 004b, 005b, 006b, 007b, 008b, 009b, 010b, 011b. For the remaining outfalls, the permittee must collect temperature samples once per month in effluent.
11. The permittee must comply with the following requirements for continuous temperature monitoring:

- a) Temperature data must be recorded using a micro-recording device known as thermistors or a device that is consistent with Washington Department of Ecology's 2003 publication, *Continuous Temperature Sampling Protocols for the Environmental Monitoring and Trends Section* (03-03-052). Set the device to record at half-hour intervals. Report the following temperature monitoring data on the DMR: monthly instantaneous maximum, maximum daily average, seven-day running average of the daily instantaneous maximum.
 - b) Use the temperature device manufacturer's software to generate (export) an Excel text or electronic ASCII text file. The file must be submitted annually to the EPA and Ecology by January 31 for the previous monitoring year along with the placement log. The placement logs should include the following information for both thermistor deployment and retrieval: date, time, temperature device manufacturer ID, location, depth, whether it measured air or water temperature, and any other details that may explain data anomalies.
12. Flood/high water discharges shall comply with the requirements in Appendix B. 11.
 13. Violations of all effluent limits are to be reported at the time that discharge monitoring reports (DMRs) are submitted (See III.B. and III.H.).
 14. The permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
 15. 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 Tables 1, 2 and 3.
 - 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.
 16. 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}."
 17. 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.

18. For those instances when there is no discharge from an outfall, report No Data Indicator Code (NODI) in the DMR.

II. Special Conditions

A. 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 Ecology 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_WA0026778_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 Ecology upon request.

1. The QAP must be designed to assist in planning for the collection and analysis of effluent 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). Copies of these documents can be found at <http://www.epa.gov/quality/qs-docs/r5-final.pdf> and <http://www.epa.gov/quality/qs-docs/g5-final.pdf>. 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, detailed sampling location, 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 all personnel involved with water quality sampling.

- d) Specifications for the collection and analysis of quality assurance samples for each sampling event, including matrix spiked and duplicate samples and analysis of field transfer blanks (sample blanks).
 - e) Name(s), address(es) and telephone number(s) of the laboratories used by or proposed to be used by the permittee.
4. The permittee 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 kept on site and made available to EPA and/or Ecology upon request.

B. Best Management Practices Plan

The permittee shall develop and implement a best management practices (BMP) Plan which incorporates practices that achieve the objectives and specific requirements listed below and those specified in Appendix B. The permittee must operate the hydroelectric generating facility in accordance with this BMP Plan and with subsequent amendments to the Plan. The BMP Plan shall be prepared in accordance with good engineering practices.

1. The BMP Plan must be consistent with the objectives listed in the general guidance contained in the publication entitled *Guidance Manual for Developing Best Management Practices (BMPs)* (EPA-833-93-004, 1993) and any subsequent revisions to this guidance document.
2. Deadlines for BMP Plan Preparation and Compliance
 - a) The BMP Plan for this facility shall be prepared, and except as provided elsewhere in this permit, shall provide for compliance with the terms of the permit and the BMP Plan, no later than within 180 days from the effective date of the permit.
 - b) The permittee must submit written notice to the EPA and Ecology that the BMP Plan has been developed and implemented within 180 days of the effective date of the permit. 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_WA0026778_BMP_05899, where YYYY_MM_DD is the date that the permittee submits the written notification.
 - c) The BMP Plan must be retained on site and made available to the EPA and/or Ecology upon request. The permittee must submit the BMP Plan within 180 days of the effective date of this permit.
3. Signature and BMP Plan Review
 - a) The BMP Plan shall be signed in accordance with Part V.E. (“Signatory Requirement”) and be retained onsite at the facility in accordance with Part III.F. (“Retention of Records”).

- b) The permittee shall make the BMP Plan available upon request to the Director, or an authorized representative.
 - c) The Director, or an authorized representative, may notify the permittee at any time that the BMP Plan does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provisions of the permit which are not being met by the BMP Plan, and identify which provisions of the BMP Plan require modifications in order to meet the minimum requirements of this Part. Within 30 days of such notification from the Director, (or as otherwise provided by the Director), or an authorized representative, the permittee shall make the required changes to the BMP Plan and shall submit to the Director a written certification that the requested changes have been made.
4. BMP Plan Modification
- a) The permittee shall amend the BMP Plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States or if the BMP Plan proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objectives of controlling pollutants in the internal facility drainage water discharges. Any changes to the BMP Plan must be consistent with the objectives and specific requirements listed above and in Appendix B.
 - b) The permittee must prepare a BMP Annual Report documenting the effectiveness of all BMPs implemented onsite, including the measures that were effective or ineffective, and the adaptive management that has occurred as a result.
 - (i) The permittee must submit the BMP Annual Report by December 31st of each year. The Report must be signed in accordance with Part V.E. (“Signatory Requirement”).
 - (ii) The permittee may submit the Report as an electronic attachment to the DMR. The file name of the electronic attachment must be as follows: YYYY_MM_DD_WA0026778_BMP_05899, where YYYY_MM_DD is the date that the permittee submits the Report.
5. Reporting of BMP incidents. Prepare a written report to the EPA and Ecology, due within seven (7) calendar days after the incident has been successfully addressed, describes the circumstances leading to the incident, corrective actions taken, and recommended changes to operation and maintenance practices and procedures to prevent incident recurrence.
6. The permittee must maintain a copy of the BMP Plan on-site at the facility and make it available to the EPA or an authorized representative upon request.

C. Environmentally Acceptable Lubricants

1. The permittee must select Environmentally Acceptable Lubricants (EALs) for all oil to water interfaces including wicket gates, bearings, lubricated wire ropes, Kaplan runners and other in-line equipment, unless technically infeasible. EALs should be consistent with the definition of EPA's 2011 report, Environmentally Acceptable Lubricants. For purposes of requirements related to EALs, technically infeasible means that no EAL products are approved for use in a given application that meet manufacturer specifications for that equipment; products which come pre-lubricated (e.g., wire ropes) and have no available alternatives manufactured with EALs; or products meeting a manufacturer's specifications are not available.
2. The permittee must prepare an EAL Annual Report on equipment under Part II.C.1 and describe the implementation and feasibility of EALs.
3. The EAL Annual Report shall include:
 - a) A list of all equipment that have oil to water interfaces;
 - b) An evaluation of the technical feasibility for using EALs for each equipment;
 - c) Timeline for using EALs for equipment, where technically infeasible; and
 - d) An annual update on progress towards implementing EALs.

The EAL Annual Report may use other EAL reports and studies that have been completed or will be completed to satisfy all or part of the EAL Annual Report requirement so long as the items listed above in this section are included. If other reports satisfy part of the items listed above, the permittee must supplement these reports with additional information to satisfy the EAL Annual Report requirement.

4. The permittee may submit the EAL Annual Report as an electronic attachment to the DMR. The file name of the electronic attachment must be as follows:

YYYY_MM_DD_WA0026778_EAL_05899, where YYYY_MM_DD is the date that the permittee submits the written notification.

D. PCB Management Plan

1. The permittee must develop a PCB Management Plan (PMP) by <one year from the effective date of the permit>. This PMP must include:
 - a) A list describing all sources of PCBs on the premises previously removed, replaced, remediated or reclassified including the date the action was taken.
 - b) A list of all potential sources of PCBs at the dam with potential pathways to interact with discharge water associated with outfalls covered by this permit.
 - c) A description of actions that have been established prior to the issuance of this permit to prevent and/or track releases of PCBs from potential PCB sources, such as containing/isolating PCB sources.
 - d) A description of actions that will be taken during the remainder of the permit cycle to prevent releases of PCBs from potential PCB sources listed in part 1a, which must include BMPs that will decrease the likelihood of PCB releases.
 - e) Any outfalls identified as having potential pathways for PCB release must be identified explicitly. These outfalls will require characterization monitoring as described in Part II.D.3 below. The PMP must have a detailed explanation for why outfalls are or are not expected to be a pathway for PCB releases. At a minimum, the following should be considered: presence of transformers; exposure to equipment, paint, caulk, oil, or other materials that may have legacy PCBs; outfalls that could discharge PCBs if there is a failure in containment equipment.
2. The permittee must submit the PMP to EPA and Ecology by <one year from the effective date of the permit>. The PMP must be submitted as an electronic attachment to the DMR. The file name of the electronic attachment must be as follows: YYYY_MM_DD_WA0026778_PMP_55099, where YYYY_MM_DD is the date that the permittee submits the PMP. The PMP must be retained on site and made available to the EPA and/or Ecology upon request.
3. The permittee must conduct characterization monitoring during two consecutive years of the permit cycle using EPA analysis method 608.3 on the discharge water associated with outfalls identified in Part II.D(1)(e), above. Monitoring must take place four times during the two-year sampling window – once each year when the river temperature is high (July through September) and once each year when the river temperature is cool (December through February). If PCBs are detected in the discharge water of a given outfall, then a detailed source

identification investigation must be conducted, including plans to implement BMPs to address the identified PCB sources.

4. The permittee must prepare a PCB Annual Report each year by December 31st of <year two from the effective date of the permit> after the PMP is complete. This PCB Annual Report must describe the following:
 - a) Results from the characterization monitoring (for two-year sampling window only) including the outfalls sampled, sample date, date of analysis, sample results, method(s), reporting limit and method detection limit.
 - b) Results of the source identification investigation(s), including plans to implement BMPs to address the identified PCB sources, and progress on implementing these BMPs.
 - c) Progress to date, evaluating the effectiveness of BMPs in preventing PCB releases.
 - d) How BMP and other actions will be optimized during the remainder of the permit cycle.
5. The PCB Annual Report must be submitted as an electronic attachment to the DMR. The file name of the electronic attachment must be as follows: YYYY_MM_DD_WA0026778_PCB_Annual_Report_55099, where YYYY_MM_DD is the date that the permittee submits the written notification. The PCB Annual Report must be retained on site and made available to the EPA and/or Ecology upon request.

E. Cooling Water Intake Structure Requirements to Minimize Adverse Impacts from Impingement and Entrainment

1. Best Technology Available. The design, location, construction, and capacity of the permittee's cooling water intake structures (CWISs) shall reflect the best technology available (BTA) for minimizing adverse environmental impacts from the impingement and entrainment of various life stages of fish (*e.g.*, eggs, larvae, juveniles, adults) by the CWISs.
2. EPA has determined that the following existing requirements are sufficient to satisfy the BTA requirement to minimize entrainment and to minimize impingement mortality:
 - a) Conduct spill releases over dam spillways according to schedules and guidelines in the most recent Fish Operating Plans and Fish Passage Plan.
 - b) Keep juvenile fish passage structures, submersible traveling screens, vertical bar screens, and trashracks free of debris or other material through regular and preventive maintenance and inspections.
 - c) Operate turbines within +/- 1% peak efficiency, or as specified in the most recent Fish Passage Plan.

- d) Operate turbines in priority order to maximize fish passage as described in the Fish Passage Plan.
 - e) Maintain a physical screening or exclusion technology that is consistent with the objectives of National Marine Fisheries Service guidelines found in National Marine Fisheries Service in NMFS Northwest Region's Anadromous Salmonid Passage Facility Design, Chapter 11: Fish Screen and Bypass Facilities.
3. The permittee must properly operate and maintain the technologies identified above as described in annual Fish Passage Plans.
 4. The permittee must conduct regular visual inspections at a frequency specified in the most current Fish Passage Plan or employ remote monitoring devices to ensure that the technologies listed above are maintained and operated to function as designed.
 5. The permittee must maintain a copy of the most recent Fish Passage Plan on-site at the facility and make it available to the EPA or an authorized representative upon request.
 6. The permittee must prepare a CWIS Annual Report documenting implementation, operations, and maintenance of the listed technologies. The Report must be submitted by December 31st of each year. The Report must include a certification statement that the facility has been properly operated and maintained and that no changes to the facility have been made unless documented. 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_WA0026778_CWIS_05899, where YYYY_MM_DD is the date that the permittee submits the written notification.

III. General 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. (“Monitoring Procedures”). The permittee must report all additional monitoring in accordance with Part III.D. (“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 Ecology.
4. Submittal of Reports as NetDMR Attachments. Unless otherwise specified in this permit, the permittee may submit all reports to EPA and Ecology as NetDMR attachments rather than as hard copies. The file name of the electronic attachment must be as follows: YYYY_MM_DD_WA0026778_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>
6. The permittee is not required to monitor when the facility is not discharging. However, the DMR must indicate the facility is not discharging and must be submitted as described in Part III.B. The permittee must submit a monthly DMR even if a discharge has not occurred, unless permit coverage has been terminated in accordance with Part V.K. of this permit.

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;
6. the results of such analyses; and
7. the certification requirements as identified in Part V.E.4.

F. Retention of Records

The permittee must retain records of all monitoring information, including but not limited to, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of DMRs, a copy of the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of EPA or Ecology 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 results in or contributes to an exceedance of any effluent limitation in the permit (See Part IV.G., “Bypass of Treatment Facilities”);
 - c) any upset that results in or contributes to an exceedance of any effluent limitation in the permit (See Part IV.H., “Upset Conditions”); or
2. The permittee must also provide a written submission within five calendar days of the time that the permittee becomes aware of any event required to be reported under subpart 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.

3. The Director of the Enforcement and Compliance Assurance Division 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. The permittee must contact the Ecology Southwest Regional Office within 24 hours by telephone, 360-407-6300.
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. Signatory Requirements, of this permit. The permittee must submit the legible originals of these documents to the Director, Enforcement and Compliance Assurance Division and a copy to Washington Department of Ecology at the following addresses:

U.S. EPA Region 10
Attn: ICIS Data Entry Team
1200 Sixth Avenue, Suite 155
ECAD 20-C04
Seattle, Washington 98101-3188

Washington Department of Ecology
Southwest Regional Office
P.O. Box 47775
Olympia, Washington 98504-7775

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. (“Reporting of Monitoring Results”) are submitted. The reports must contain the information listed in Part III.G. of this permit (“Twenty-four Hour Notice of Noncompliance Reporting”).

I. Changes in Discharge of Toxic Pollutants

The permittee must notify the Director of the Water Division and Ecology as soon as it knows, or has reason to believe:

1. That any activity has occurred or will occur that would result in the discharge, on a **routine or frequent** basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following “notification levels”:
 - a) One hundred micrograms per liter (100 ug/l);
 - b) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - c) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - d) The level established by EPA in accordance with 40 CFR 122.44(f).

2. That any activity has occurred or will occur that would result in any discharge, on a **non-routine or infrequent** basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following “notification levels”:
 - a) Five hundred micrograms per liter (500 ug/l);
 - b) One milligram per liter (1 mg/l) for antimony;
 - c) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - d) The level established by EPA in accordance with 40 CFR 122.44(f).
3. The permittee must submit the notification to the Water Division at the following address:

US EPA Region 10
Attn: NPDES Permits Section Manager
1200 Sixth Avenue
Suite 155, (MS: 19-C04)
Seattle, Washington 98101-3140

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 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$55,800 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 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 U.S.C. § 2461 note) as amended by the

Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$21,393 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$53,484). Pursuant to 40 CFR 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 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$21,393 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$278,995).

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) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Removed Substances

All collected screenings, grit, solids, sludge, filter backwash water, and/or other pollutants removed in the course of treatment or control of wastewaters must be disposed of in a manner such as to prevent such pollutants from entering the waters of the United States.

G. Bypass of Treatment Facilities

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this Part.
2. Notice.

- a) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it 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 (“Twenty-four Hour Notice of Noncompliance Reporting”).
3. Prohibition of bypass.
- a) Bypass is prohibited, and the Director of the Enforcement and Compliance Assurance Division may take enforcement action against the permittee for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment 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
 - (3) The permittee submitted notices as required under paragraph 2 of this Part.
 - b) The Director of the Enforcement and Compliance Assurance Division 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.

H. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the permittee meets the requirements of paragraph 2 of this Part. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
2. Conditions necessary for a demonstration of upset. To establish the affirmative defense of upset, the permittee 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, “Twenty-four Hour Notice of Noncompliance Reporting;” and
 - d) The permittee complied with any remedial measures required under Part IV.D, “Duty to Mitigate.”

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

I. Toxic Pollutants

The permittee must comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Act within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

J. Planned Changes

The permittee must give written notice to the Director of the Water Division as specified in Part III.I.3. and Ecology as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

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

K. Anticipated Noncompliance

The permittee must give written advance notice to the Director of the Enforcement and Compliance Assurance Division and Ecology of any planned changes in the permitted facility or activity that may result in noncompliance with this 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 Ecology, within the time specified in the request, any information that EPA or Ecology 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 Ecology, 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 Ecology, it must promptly submit the omitted facts or corrected information in writing.

E. Signatory Requirements

All applications, reports or information submitted to EPA and Ecology 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 Ecology 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 Enforcement and Compliance Assurance Division and Ecology.
3. Changes to authorization. If an authorization under Part V.E.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part V.E.2. must be submitted to the Director of the Enforcement and Compliance Assurance Division and Ecology 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 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 Enforcement and Compliance Assurance Division, EPA Region 10; Ecology; 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. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the CWA or Section 106 of CERCLA.

I. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, nor any infringement of federal, tribal, state or local laws or regulations.

J. Transfers

This permit is not transferable to any person except after written notice to the Director of the Water Division as specified in part III.I.3. 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).

K. Notice of Termination of Discharge

The permittee must notify the EPA and the Ecology regional office within 30 days of discharge termination. The notification must be in writing, and include the date of discharge termination, and signed in accordance with the signatory requirements of Part V.E. of this general permit. The permittee is required to submit discharge monitoring reports (DMRs) until the effective date of Permit termination.

1. Requests to terminate coverage under this permit must be made in writing and submitted to EPA at the following address:

United States Environmental Protection Agency, Region 10
Attn: NPDES Permits Section Manager
1200 Sixth Avenue, Suite 155 (MS: 19-C04)
Seattle, WA 98101

2. Coverage under this permit may be terminated in accordance with 40 CFR 122.64 if EPA determines in writing that the entire discharge is permanently terminated either by elimination of the flow. Termination of coverage will become effective 30 days after the written determination is sent to the permittee by EPA, unless the permittee objects within that time.

L. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

VI. Definitions

1. “Act” means the Clean Water Act.
2. “Administrator” means the Administrator of the EPA, or an authorized representative.
3. “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.
4. “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.
5. “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.
6. “Composite” -- see “24-hour composite”.
7. “Composite sample” means a flow-proportioned mixture of not less than four discrete representative samples collected within the same 24 hours.
8. “Conventional pollutant” means BOD, TSS, bacteria, oil and grease, and pH as defined in 40 CFR 401.16.
9. “Continuous discharge” means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities [40 CFR 122.2].
10. “CWA” means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, 33 U.S.C. § 1251 et seq. [40 CFR 122.2].
11. “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.
12. “Designated Use” means those beneficial uses assigned to identified waters in Washington Department of Ecology, WAC 172-201A, “Water Quality Standards for Surface Waters of the State of Washington,” Sections 200 through 210, whether or not the uses are being attained.

13. “The Director” means the Regional Administrator of EPA Region 10, or the Director of the EPA Region 10 Water Division, the Washington Department of Ecology, or an authorized representative thereof.
14. “Director of the Enforcement and Compliance Assurance Division” means the Director of the Enforcement and Compliance Assurance Division, EPA Region 10, or an authorized representative.
15. “Director of the Water Division” means the Director of the Water Division, EPA Region 10, or an authorized representative.
16. “Discharge” when used without qualification meant the “discharge of a pollutant.”
17. “Discharge Monitoring Report (DMR)” means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees [40 CFR 122.2].
18. “Discharge of a pollutant” means any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source,” or any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any “indirect discharger” [40 CFR 122.2].
19. “Draft permit” means a document prepared under 40 CFR 124.6 indicating the Director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a “permit” [40 CFR 122.2].
20. “Effluent limitation” means any restriction imposed by the Director on quantities, discharge rates, and concentrations of “pollutants” which are “discharged” from “point sources” into “waters of the United States,” the waters of the “contiguous zone,” or the ocean [40 CFR 122.2].
21. “Effluent limitations guidelines (ELG)” means a regulation published by the Administrator under section 304(b) of CWA to adopt or revise “effluent limitations” [40 CFR 122.2].
22. “Environmentally Acceptable Lubricants” means lubricants that are “biodegradable” and “minimally-toxic,” and are “not bioaccumulative” as defined in this permit. For purposes of this permit, products meeting this permit’s definitions of being an “Environmentally Acceptable Lubricant” include those labeled by the following labeling programs: Blue Angel, European Ecolabel, Nordic Swan, the Swedish Standards SS 155434 and 155470, and EPA’s Design for the Environment (DfE).
23. “EPA” means the United States Environmental Protection Agency.

24. “Excluded waters,” or prohibited waters, means water bodies not authorized as receiving waters to be covered under this general NPDES permit.
25. “Facility” means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.
26. “Geometric Mean” means the n^{th} root of a product of n factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.
27. “Grab” sample is an individual sample collected over a period of time not exceeding 15 minutes.
28. “Hazardous Material” means a material or combination of materials which presents a substantial present or potential hazard to human health, the public health, or the environment. It is defined at 40 CFR 122.2 to mean any substance designated under 40 CFR 116, pursuant to Section 311 of the CWA.
29. “Indian Country” as indicated by 18 U.S.C. § 1151 means: (a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and, (c) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.
30. “Indian Tribe” means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian Reservation [40 CFR 122.2].
31. “Influent” means the water from upstream that enters into the facility.
32. “Maximum” means the highest measured discharge or pollutant in a waste stream during the time period of interest.
33. “Maximum daily discharge limitation” means the highest allowable “daily discharge.”
34. “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.
35. “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.

36. “Monthly Average Limit” means the average of “daily discharges” over a monitoring month, calculated as the sum of all “daily discharges” measured during a monitoring month divided by the number of “daily discharges” measured during that month [40 CFR 122.2].
37. “NPDES” means National Pollutant Discharge Elimination System, the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits . . . under sections 307, 402, 318, and 405 of the CWA.
38. “Nonconventional Pollutants” means all pollutants that are not included in the list of conventional or toxic pollutants in 40 CFR 401. This includes pollutants such as chlorine, ammonia, COD, nitrogen and phosphorous.
39. “Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials [except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011 et seq.)], heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water [40 CFR 122.2].
40. “QA/QC” means quality assurance/quality control.
41. “Services” means the United States Fish and Wildlife Service and/or the National Oceanic and Atmospheric Administration- National Marine Fisheries Service (NOAA Fisheries).
42. “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.
43. “Technology-based effluent limitation (TBEL)” means treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. EPA is required to promulgate technology-based limitations and standards that reflect pollutant reductions that can be achieved by categories, or subcategories of industrial point sources using specific technologies that EPA identifies as meeting the statutorily prescribed level of control under the authority of CWA Sections 301, 304, 306, 307, 308, 402, and 501 [33 U.S.C. § 1311, 1314,1316,1318,1342, and 1361].
44. “Total Maximum Daily Load (TMDL)” means the sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for non-point sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality [IDAPA 58.012.02.010.100].
45. “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.

46. “Waters of the United States or waters of the U.S.” means:
- a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
 - b) All interstate waters, including interstate “wetlands;”
 - c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands,” sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (i) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (iii) Which are used or could be used for industrial purposes by industries in interstate commerce;
 - d) All impoundments of waters otherwise defined as waters of the United States under this definition;
 - e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
 - f) The territorial sea; and
 - g) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition [40 CFR 122.2].
47. “Whole Effluent Toxicity (WET)” means the) means the aggregate toxic effect of an effluent measured directly by a toxicity test [40 CFR 122.2].

Appendix A

Minimum Levels

The Table below lists the maximum Minimum Level (ML) for pollutants that may have monitoring requirements 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.

CONVENTIONAL PARAMETERS

Pollutant & CAS No. (if available)	Minimum Level (ML) µg/L unless specified
Temperature	0.2° C
Oil and Grease	5 mg/L
pH	N/A

Appendix B

BEST MANAGEMENT PRACTICES (BMP) PLAN

1. Pollution Prevention Team. The BMP Plan shall identify a specific individual or individuals within the facility organization as members of the Pollution Prevention Team who are responsible for developing the BMP Plan and for assisting the facility manager in the implementing, maintaining, and revising of this plan. The responsibilities of each team member must be listed. The activities and responsibilities of the Pollution Prevention Team shall address all aspects of the facility's BMP Plan.

2. Prevention and Minimization of Oil and Wastewater Discharges. The BMP Plan shall establish specific best management practices or other measures that prevent and minimize oil, grease, and hydraulic fluids from all sources from entering the river, including at a minimum, the following:
 - a) Maintain protective seals on all equipment with oil-to-water interfaces in good operating order to minimize the leaking of hydraulic oil or other oils
 - b) Minimize lubricants for all facility equipment that come in contact with river water such as spill gate mechanisms, turbine gate mechanisms, etc.
 - c) Use lubricants, paint and caulk free of PCBs, unless technically infeasible.
 - d) Use preventative maintenance and cleaning programs for turbine and wicket gate parts.
 - e) Regularly inspect fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc. to prevent drips or leaks.
 - f) Use proper operation of the oil/water separators through inspections at appropriate intervals, regularly scheduled maintenance, and by review of sampling data.
 - g) A preventive maintenance program for internal facility drainage water management devices (e.g., cleaning oil/water separators, pits, sumps) that includes inspection and testing to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.
 - h) Good housekeeping practices that require the maintenance of areas, which may contribute pollutants to internal facility drainage water discharges, to be clean and orderly.

- i) Site-specific spill prevention and response procedures in areas where potential spills, which can contribute pollutants to internal facility drainage water discharges, can occur and their accompanying drainage points shall be identified clearly in the BMP Plan. When containment is impracticable, the procedures should outline site-specific contingency plans to prevent oil releases. Procedures and site-specific BMPs shall be developed and implemented to eliminate and/or minimize the opportunity for oil leakage to enter the drainage system at the facility. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment in the BMP Plan should be considered. Procedures for cleaning up spills shall be identified in the BMP Plan and made available to the appropriate personnel. The necessary equipment to implement a clean-up should be available to personnel.
 - j) Inspections with qualified personnel for designated equipment and areas of the facility at appropriate intervals specified in the BMP Plan. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspection shall be maintained.
 - k) Employee training programs to inform personnel responsible for implementing activities identified in the BMP Plan or otherwise responsible for internal facility drainage water management, at all levels of responsibility, of the components and goals of the BMP Plan.
 - l) Record-keeping and internal reporting procedures with a description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of internal facility drainage water discharges shall be included in the BMP Plan. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the BMP Plan.
3. Oil Accountability, Tracking, and Reporting. The BMP Plan will describe the quantity and type of all oil products used on-site and how they are monitored and tracked using guidelines from the facility's Oil Accountability Plan. If the Oil Accountability Plan covers all elements of this permit requirement, the BMP Plan may reference the Oil Accountability Plan. Records are to be kept on-site and available for inspection by the EPA or Ecology. Oil gauges should be used that provide appropriate level of markings to ensure operators and maintenance personnel can easily identify an unusual condition. The permittee must notify EPA and Ecology if there is an unaccounted oil release into the environment consistent with the facility's Oil Accountability Plan.
4. Drainage: The BMP plan shall include the following:
- a. All facility-specific activities and significant materials which may be potentially significant pollutant sources.
 - b. Other potential sources which may reasonably be expected to add significant amounts of pollutants to internal facility drainage water discharges. Factors to

consider include the toxicity of pollutants; quantity of pollutants used; the likelihood of contact with internal facility drainage water discharges; and history of significant leaks or spills.

- c. A plot of the floor drainage of the facility's interior including sumps and oil/water separators and locations where major spills or leaks have occurred.
5. Inventory of Exposed Materials. The BMP Plan shall include an inventory of the types of materials handled at the facility that potentially may be inadvertently spilled. Such inventory shall include a narrative description of significant materials that are or have been handled, treated, stored or disposed in a manner to allow exposure to internal facility drainage water between the time of three years before the effective date of the permit coverage and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with internal facility drainage water; the location and description of existing structural and non-structural control measures to reduce pollutants in the internal facility drainage water discharges; and a description of any treatment these discharges receive.
6. Spills and Leaks. The BMP Plan shall include a list of significant spills and significant leaks of toxic or hazardous pollutants that occurred, during the three-year period prior to the active date of permit coverage, at areas that drain to an outfall associated with floor drains. Such a list shall be updated as appropriate during the term of the permit. The spill and leak documentation should also document why the spill occurred, the volume of the spill, and how the spill was addressed. This should be part of the BMP Annual Report if a spill occurs during the permit term.
7. Sampling Data. A summary of existing discharge sampling data describing pollutants in internal facility drainage water discharges from the facility, including a summary of sampling data collected during the term of this permit.
8. Risk Identification and Summary of Potential Pollutant Sources. A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; maintenance programs; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the facility and for each potential source, any pollutant or pollutant parameter (e.g. biochemical oxygen demand, etc.) of concern shall be identified.
9. Trash Racks, Strainers, or Intake Screens. The permittee shall develop and implement procedures to remove solid materials from the trash racks, strainers or intake screens. The solid materials exclude naturally occurring materials such as leaves, branches, grass, and so forth. Inspections and maintenance of the trash racks and intake screens shall be scheduled and documented with the record-keeping included with the BMP Plan and summarized in the Annual Report required under Part II.B.8. The permittee shall amend the removal procedures whenever there is a change in the design, construction, operation, or maintenance which has a significant effect on the deposition of solid material on the trash racks or intake screens.

The trash removal activities are to be performed where it is reasonable and feasible at the facility. These trash removal procedures are to include appropriate safety practices because the permittee is responsible for employee safety at the facility.

10. Backwash Strainer. The permittee shall develop and implement inspection and maintenance procedures at appropriate intervals specified in the BMP Plan to insure proper operation of the backwash strainer. Qualified facility personnel shall be identified to inspect this equipment. Records of the inspections and maintenance shall be maintained and summarized in the Annual Report required under Part II.B.4.
11. Flood/High Water Discharges. Identify potential for flood/high water discharges. Develop and implement specific flood/high water practices and procedures to eliminate pollutants from areas of the facility that would be inundated during flood/high water events and that would reasonably be expected to add significant amounts of pollutants to the identified flood/high water discharges at the facility. Areas of the facility inundated by flood or high waters should be maintained to prevent pollutants from entering the surrounding surface waters during flood or high water events.



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NORTHWESTERN DIVISION
PO BOX 2870
PORTLAND, OR 97208-2870

4 May 2020

SUBJECT: USACE Comments to EPA’s DRAFT Proposed NPDES Permits for Lower Columbia River Hydroelectric Facilities: Bonneville Lock and Dam (#WA0026778), The Dalles Lock and Dam (#WA0026701), John Day Lock and Dam (#WA0026832), and McNary Lock and Dam (#WA0026824); Lower Snake River Hydroelectric Facilities: Ice Harbor Lock and Dam (#WA0026816), Lower Monumental Lock and Dam (#WA0026808), Little Goose Lock and Dam (#WA0026786), and Lower Granite Lock and Dam (#WA0026794) within the State of Washington; and Lower Columbia River and Lower Snake River Fact Sheets.

Jenny Wu
Environmental Engineer, NPDES Permits Section
Office of Water and Watersheds
U.S. EPA, Region 10
1200 6th Ave, Suite 155 (19-CO4)
Seattle, WA 98101

Dear Ms. Wu:

On behalf of the U.S. Army Corps of Engineers (“Corps”) Northwestern Division, I submit the following comments on the Environmental Protection Agency’s (“EPA”) draft National Pollutant Discharge Elimination System (“NPDES”) permits for the Corps’ four lower Snake River and four lower Columbia River dams. These permits are as follows:

- Lower Columbia River Hydroelectric Facilities:
 - Bonneville Lock and Dam (#WA0026778),
 - The Dalles Lock and Dam (#WA0026701),
 - John Day Lock and Dam (#WA0026832), and
 - McNary Lock and Dam (#WA0026824);
- Lower Snake River Hydroelectric Facilities:
 - Ice Harbor Lock and Dam (#WA0026816),
 - Lower Monumental Lock and Dam (#WA0026808),
 - Little Goose Lock and Dam (#WA0026786), and
 - Lower Granite Lock and Dam (#WA0026794) within the State of Washington;and
- Lower Columbia River and Lower Snake River Fact Sheets.

The Corps’ comments are organized in the following manner:

SECTION A - Comments that Apply to All Eight (8) Draft NPDES Permits
SECTION B (1) - Comments Specific to All Draft Lower Columbia River Permits
SECTION B (2) - Comments Specific to All Draft Lower Snake River Permits
SECTION C (1) - Comments Specific to Individual Draft Lower Columbia River Permits

SECTION C (2) - Comments Specific to Individual Draft Lower Snake River Permits
SECTION D (1) - Comments Specific to the Lower Columbia River Fact Sheet
SECTION D (2) - Comments Specific to the Lower Snake River Fact Sheet

SECTION A - Comments that Apply to All Eight (8) Draft NPDES Permits (#WA0026778; #WA0026701; #WA0026832; #WA0026824; #WA0026816; #WA0026808; #WA0026786 and #WA0026794)

The requirements contained in the NPDES permits should be focused on regulating the discharges from the discrete point sources described in the Corps' NPDES permit applications, as opposed to the facilities as a whole. Additionally, the conditions in the NPDES permits, or the Washington Department of Ecology's associated 401 Certifications, should not impair the Corps' ability to effectively operate and maintain the dams for the multiple Congressionally-authorized purposes, nor interfere with the Corps' compliance with other laws. Further, the language of the Clean Water Act ("CWA") explicitly recognizes that the provisions of the CWA cannot be construed to affect the Corps' ability to maintain navigation. *See* 33 USC 1371(a); *In re Operation of Missouri River System Litigation*, 418 F.3d 915 (8th Cir. 2005).

Schedule of Submissions (Table of Contents)

Section A - Comment 1

Annual reports identified in the Table of Contents and throughout the permit are identified with a due date of 31 December. To provide for adequate time to complete annual reports for Best Management Practices ("BMP"), Environmentally Acceptable Lubricant ("EAL"), Cooling Water Intake Structure ("CWIS"), PCBs, etc., all annual reports should be due on 28 February.

Limitations and Monitoring Requirements:

Section A - Comment 2

I.B.4. Effluent Limitations and Monitoring

No frequency of visual observation of outfalls is provided in the permit. The Corps recommends observations at the same frequency as grab samples of outfalls be included as a permit requirement.

Section A - Comment 3

I.B. Table 1, Effluent Limitations and Monitoring Requirements, Parameter: pH, Oil and Grease

Weekly sampling requirements are redundant and not necessary given the low risk and high cost of weekly sampling. If any sampling is required, quarterly sampling would be adequate and preferred. Previous sampling has determined a low risk of oil discharge through cooling water and drainage systems, and any release is likely to be detected through project specific oil accountability procedures. Because this requirement is redundant to existing monitoring processes, it is not necessary to achieve limitations/standards to meet the intent of the Clean Water Act, and will only increase costs for each facility.

Section A - Comment 4

I.B. Table 1, Table 2, Effluent Limitations and Monitoring Requirements

The draft NPDES permits require a monthly measurement of discharge flow. Measuring the discharge of each outfall is not feasible. The Corps recommends changing the language to "calculate" flow. The flow will be calculated using the best available information, including design flows, and based on how long that outfall operated.

Section A - Comment 5

I.B. Table 3, Effluent Limitations and Monitoring Requirements

The date that sampling must begin is not specifically identified in permit. The requirement to conduct sampling should commence once the QAP is completed. Sampling prior to that may result in samples that will not meet quality assurance guidelines. If temperature monitoring remains a requirement in the permits, the Corps requests to perform six months of temperature monitoring to determine if ongoing temperature monitoring is justified or can be discontinued.

II. Special Conditions

Section A - Comment 6

II.B.1. Best Management Practices

In the EPA "Guidance Manual for Developing Best Management Practices (BMPs)" it states that while Section 304(e) of the CWA restricts the application of BMPs to ancillary sources and certain chemicals, 40 C.F.R. § 122.44(k) authorizes the use of BMPs to abate the discharge of pollutants when: (1) they are developed in accordance with Section 304(e) of the CWA; (2) numeric limitations are infeasible; or (3) the practices are necessary to achieve limitations/standards or meet the intent of the CWA. Because the dams are not industrial manufacturers or treat any process waste, and the intent of the permit is to regulate the discharges associated with operation of equipment at a hydropower plant, the Corps of Engineers requests the removal of the BMP requirement because it is unnecessary. The project specific Spill Prevention Control and Countermeasure (SPCC) Plans more adequately address the concern for housekeeping, site run off, inspections, security, training, and loading/unloading, and projects have a site-specific Oil Accountability Program. In addition, the projects maintain a robust dangerous/hazardous waste program in compliance with Washington Department of Ecology and/or Oregon Department of Environmental Quality's RCRA regulations and are typically considered Small Quantity Generators. The requirements in Appendix B are redundant and overreaching for a facility that is an end user of a small amount of products.

Section A - Comment 7

II.B.5 Reporting BMP Incidents

Corps does not believe any BMPs are warranted due to work practices that are already in place, but BMP incidents (II.B.5) should fall into the category of "other non-compliance reporting" (III.H) and be reported with monitoring reports for Part III.B. This will limit the

number of required report submittals, lowering the cost of compliance, without impacting discharge.

Section A - Comment 8

II.D. PCB Management Plan

The PCB Management Plan and reporting requirements are overly broad and unjustified, especially given that the permit specifically prohibits the discharge of PCBs. The permit Fact Sheets do not identify any historic sampling that found discharges of PCBs from the identified outfalls, and there is no indication that permitted discharges/outfalls may include PCBs in the future. 33 U.S.C. § 1314(e) [Section 304(e)] does authorize EPA to promulgate regulations to establish BMPs at the facility to prevent runoff, spillage, or leaks of toxic substances (e.g., PCBs) located at a facility, but there must be some indication such toxic substances “may contribute significant amounts of such pollutants to navigable waters.” In other words, there must be some reasonable likelihood the PCBs will become part of the permitted discharges.

Similarly, 40 C.F.R. § 122.44(k) allows the establishment of BMPs to “control or abate the discharge of pollutants.” However, there should be some likelihood the PCBs will become part of the permitted discharges to justify the expense, resources, and effort needed to comply with such PCB requirements. Sampling and identification of PCB-containing equipment has historically been conducted at the facilities as required by the TSCA. The PCB requirements go well beyond the TSCA and are unnecessary given the lack of PCBs in any of the samples submitted to EPA during the application process. The PCB monitoring, plan, and annual reporting requirements are not justified, overly burdensome, and should be removed from the permits. The Corps also has a yearly requirement to report any PCBs disposed of or stored at the facilities. If EPA includes any PCB monitoring or reporting requirements in the permits, the requirement to include a list describing all sources of PCBs on the premises previously removed, replaced, remediated, or reclassified should be removed as unnecessary and overly burdensome, as these materials have already been removed and cannot result in a discharge relevant to the permit. The same is true for the requirement to describe actions that have been established prior to the issuance of this permit to prevent and/or track releases of PCBs from potential PCB sources. There is also no need to sample paint and caulking, especially since it is not a potential source of PCBs in relation to the facilities’ outfalls.

Section A - Comment 9

II.D. PCB Management Plan

The PCB monitoring, plan, and annual report should be removed from the permits. Prior sampling of permitted discharges have not identified any PCBs, and there is no reason to believe the permitted discharges/outfalls may include PCBs in the future. The PCB monitoring, plan, and annual report requirements are not justified, unnecessary, and overly burdensome, especially given the permits specifically prohibit the discharge of PCBs.

Section A - Comment 10

II.E. Cooling Water Intake Structure (“CWIS”) Requirements to Minimize Adverse Impacts from Impingement and Entrainment [General]:

The Corps requests removal of Part E in its entirety as ESA compliance is consulted on between the National Marine Fisheries Service and the U.S. Fish and Wildlife Services (“Services”) and the Action Agencies. EPA does not have jurisdiction over compliance with the ESA, and the NPDES permit should not include ESA requirements that have been previously consulted on with the Services.

Further, the Corps disagrees with EPA that CWA Section 316(b) and EPA’s implementing rules for cooling water intake structure requirements apply to hydropower facilities. Therefore, these requirements should be removed from these draft NPDES permits. However, if EPA continues to assert that Section 316(b) applies to hydropower facilities, the Corps would like to note that these facilities already meet all four 316(b) factors, and therefore the NPDES permits and associated 401 Certifications should not contain 316(b) cooling water impingement and entrainment restrictions and conditions. However, if EPA decides to include the section in its entirety, please consider the comments below on specific changes.

Section A - Comment 11

II.E. Cooling Water Intake Structure (“CWIS”) Requirements to Minimize Adverse Impacts from Impingement and Entrainment [General]

If Section E remains in the final NPDES permits despite the fact that ESA consultation is reserved for the Services and Action Agencies, the Corps recommends the following:

- (1) Please add a description of the Columbia River System, Regional Forum workgroups, e.g., weekly Technical Management Team meetings, to properly characterize the Corps’ responsibilities during in-season operations, and
- (2) The eight draft NPDES permits do not recognize that the Fish Passage Plan, which includes the Fish Operations Plan, changes annually. Therefore, the Corps recommends the following rewrite of Section II.E.2 in each of the eight draft NPDES permits to clarify that this section is satisfied based on the requirements in the annual Fish Passage Plan, including the Fish Operations Plan. The Corps recommends that **Section II.E. Cooling Water Intake Structure Requirements to Minimize Adverse Impacts from Impingement and Entrainment**, subsection (2), should read: “EPA has determined that the ~~following~~ existing requirements as specified in the most recent Fish Passage Plan, including the Fish Operations Plan, are sufficient to satisfy the BTA requirement to minimize entrainment and to minimize impingement mortality.” Adding the underlined language to each of the eight permits would clarify EPA’s intent that the measures identified in the annual Fish Passage Plan, including the Fish Operations Plan, satisfy the BTA requirements.

Section A - Comment 12

II.E.2.(a). CWIS Requirements to Minimize Adverse Impacts from Impingement and Entrainment.

If EPA does not remove this section in its entirety, please remove provision (a) regarding "...spill releases over dam spillways." The Corps is already complying with Section 316(b), and therefore this section is unnecessary. However, if EPA does not remove this specific provision and does not revise as recommended in Section A – Comment 11, please include the clause "...or as specified in the most recent Fish Passage Plan."

Section A - Comment 13

II.E.2.(b). CWIS Requirements to Minimize Adverse Impacts from Impingement and Entrainment.

If EPA does not remove this section in its entirety, please remove provision (b). The Corps is already complying with Section 316(b), and therefore this section is unnecessary. However, if EPA does not remove this specific provision and does not revise as recommended in Section A – Comment 11, please include the clause "...or as specified in the most recent Fish Passage Plan."

Section A - Comment 14

II.E.2.(c). CWIS Requirements to Minimize Adverse Impacts from Impingement and Entrainment.

The requirements regarding operating "...turbines within +/- 1% peak efficiency, or as specified in the most recent Fish Passage Plan" is unnecessary and should be removed from the NPDES permits. The NPDES permits should focus on discharges, not turbine operations that are already fully described in the annual Fish Passage Plan, a requirement from the Action Agencies' ESA consultations. If EPA does not remove this specific provision and does not revise as recommended in Section A – Comment 11, please retain the clause "...or as specified in the most recent Fish Passage Plan."

Section A - Comment 15

II.E.2.(d). CWIS Requirements to Minimize Adverse Impacts from Impingement and Entrainment.

Please remove provision (d) in its entirety as ESA compliance is consulted on between the Services and the Action Agencies. EPA does not have a role, and the NPDES permit should not include requirements that have been previously consulted on, including operating "...turbines in priority order to maximize fish passage". These operations are fully described in the annual Fish Passage Plan, a requirement of the Action Agencies ESA consultation. Additionally, this permit should focus on discharges, not operations of the turbines. However, if EPA does not remove this specific provision and does not revise as recommended in Section A – Comment 11, please include the clause "...or as specified in the most recent Fish Passage Plan."

IV. Compliance Responsibilities

Section A - Comment 16

IV.B.1. Civil and Administrative Penalties and IV.B.2 Administrative Penalties

Please strike IV.B.1 and IV.B.2. The United States is excluded from the definition of "person" under the CWA. 33 U.S.C. § 1362(5); See also *United States Dep't of Energy v. Ohio*, 503 U.S. 607 (1992).

Appendix B

Section A - Comment 17

B.2. & B.3. BMP Plan

The Corps does not believe any BMPs associated with Oil Accountability are warranted due to work practices that are already in place and EPA's failure to establish a connection between oil products and the permitted discharges/outfalls. For example, the Oil Accountability, Tracking, and Reporting requirements in Appendix B.3 is redundant with Section 311 SPCC Plans. This appears to be an attempt to regulate the facility as a whole under CWA Section 402. Any language that attempts to regulate the facility as a whole should be removed from the permit.

Section A - Comment 18

B.5. BMP Plan

The Corps does not believe any BMPs are warranted due to work practices that are already in place but the term "significant" in the inventory of exposed materials (App B 5) should be defined as quantities over 55 gallons.

Section A - Comment 19

B.7. BMP Plan

The Corps does not believe any BMPs are warranted due to work practices that are already in place and the existing data that was already submitted as part of the application process. Additionally, this data is already included in monthly discharge monitoring reports. The Corps requests removal of sampling data in the Best Management Plan because it is redundant and unnecessary.

Section A - Comment 20

B.9. BMP Plan

The Corps does not believe any BMPs are warranted due to work practices that are already in place but if the section is not removed in its entirety, please remove requirement "9" from Appendix B, Best Management Practices *and* the requirement in Best Management Practices Plan (Section II.B). This provision is an ESA compliance issue that is consulted on between the Services and the Action Agencies. EPA does not have a role, and the NPDES permit should not include requirements that have been previously consulted on. This provision fails to identify a connection between the maintenance procedures and the permitted

discharges/outfalls. This section is entirely duplicative with existing ESA consultation processes and products, and EPA should not attempt to enforce Biological Opinion requirements via CWA NPDES permits.

Section A - Comment 21

B.10. BMP Plan

The Corps does not believe any BMPs are warranted due to work practices that are already in place, and requests removal of this provision. The BMP plan appears to be an attempt to regulate the facility as a whole under Section 402 and not just the permitted discharges -- i.e., no required nexus with the permitted discharge.

SECTION B (1) - Comments Specific to All Draft Lower Columbia River NPDES Permits (#WA0026778; #WA0026701; #WA0026832; and #WA0026824)

Section B (1) - Comment 1

I. Limitations and Monitoring Requirements B. Effluent Limitations and Monitoring 4.

Foam, floating, suspended, or submerged matter near outfalls generally consists of material already in the river such as pollen, algae, and woody-material that is being passed through the facility (and therefore exempt from the permit). Please provide clarification that material that has passed through the facility is not subject to consideration in this permit nor is a violation of the permit. Clarify the term "trace."

Section B (1) - Comment 2

I. Limitations and Monitoring Requirements Table 1, Table 2, and Table 3.

The site specific criteria in Oregon is 7 to 8.5 standard units. No processes that modify pH are in place at the hydropower facilities, and there are only anecdotal reports that at times the specific portions of the Columbia River may exceed these limits. Recommend that language be added to the permit as follows: between 7-8.5, if this is exceeded, pH must be within .5 standard units of influent.

Section B (1) - Comment 3

I. Limitations and Monitoring Requirements Table 1, Table 2, and Table 3.

The Fact Sheet references several Washington state permits to establish a dry dock discharge level of 5 mg/l daily maximum to protect water quality. That daily maximum is described in WA 0031411 as "Maximum daily effluent limit is the highest allowable daily discharge. The daily discharge is the average discharge of a pollutant measured during a calendar day. For pollutants with limits expressed in units of mass, calculate the daily discharge as the total mass of the pollutant discharged over the day." The permit limits for oil and grease should be modified to include this language.

SECTION B (2) - Comments Specific to All Draft Lower Snake River Permits (#WA0026816; #WA0026808; #WA0026786; and #WA0026794)

Section B (2) - Comment 1

Section I.A. & I.B.4. Effluent Limitations and Monitoring:

The Corps requests that language concerning oil spills be tied to permitted outfalls only. The requirement in the NPDES permits should be to only report sheens from outfalls that are permitted by that specific permit. Other spills are reported in compliance with CWA Section 311.

Section B (2) - Comment 2

I.B. Effluent Limitations and Monitoring:

If potential temperature effects are minimal (*see* Table 10 in the Fact Sheet), there is no need for such robust temperature monitoring and reports. Please remove or edit this provision accordingly.

SECTION C (1) - Comments Specific to Individual Draft Lower Columbia River Permits:

Section C (1) - Comment 1

Title Page List of Outfalls - Bonneville Lock and Dam (#WA0026778)

Since the original permit application, the Corps has made improvements to the Powerhouse oil-water separator (“OWS”) resulting in the addition of an additional outfall. Please add this outfall to the permit as #16. It is otherwise identical to the existing OWS outfall #12.

Section C (1) - Comment 2

Outfalls - The Dalles Lock and Dam (#WA0026701)

The permit information is out of date. The following outfalls no longer discharge from water-cooled transformers: 022, 023, 026, 027, 028, and 029. Additionally, by the end of 2020, outfalls 018, 019, 030, and 031 are scheduled to be discontinued.

SECTION C (2) - Comments Specific to Individual Draft Lower Snake River Permits:

Section C (2) - Comment 1

I.B. Effluent Limitations and Monitoring - Lower Monumental Lock and Dam (#WA0026808)

The Corps disagrees with the requirement to monitor the identified outfalls weekly for pH, Oil and Grease as this would be overly burdensome. Lower Monumental maintains a robust Oil Accountability Program for strict control of the inventory of oil and inspections of all oil-filled equipment. There are numerous times throughout the year when there will be no discharge from a unit, non-contact cooling water discharge, or the discharge will be sporadic. Weekly

sampling would be problematic if the unit were to run on the weekends with only one operator on shift for three days.

Section C (2) - Comment 2

I.B. Effluent Limitations and Monitoring - Lower Monumental Lock and Dam #WA0026808

For outfall 004 Emergency Diesel Generator, weekly sampling is not practical and will add wear and tear to equipment and increase operating costs. The generator is only used when the dam trips off line, which is very infrequent. There is a preventative maintenance work order to start and run the generator once a month. The small amount of run time will not contribute to reliable data concerning temperature load for the river system during the short run times.

Section C (2) - Comment 3

Outfalls - Little Goose Lock and Dam (#WA0026786)

The Navigation Lock Fill Valve Sump, outfall #13, is no longer a wet sump and has zero discharges. The Corps requests this outfall be removed from the permit.

Section C (2) - Comment 4

Outfalls - Lower Granite Lock and Dam (#WA0026794)

The Corps requests to delete outfall #13 on page #1 as it is an error.

SECTION D (1) - Comments Specific to the Lower Columbia River Fact Sheet:

Section D (1) - Comment 1

Title Page – List of Outfalls – Bonneville Dam

Since the original permit application, the Corps has made improvements to the Powerhouse OWS resulting in the addition of an additional outfall. Please add this outfall to the Fact Sheet as #16. It is otherwise identical to the existing OWS outfall #12.

Section D (1) - Comment 2

I.A. Background Information, General Information Table 1, 2, 3

The Fact Sheet information is out of date. For Table 1, update the Facility Contact with the phone number 541-374-3850. If Facility Operator is added to Table 1, please provide as COL Aaron Dorf, P.O. Box 2946, Portland, OR 97208. For Table 2, update the facility contact number to 541-506-8300, and Operator Name to COL Aaron Dorf. For Table 3, update the Facility Contact to Monica Carter, 541-739-1128, and Operator Name to COL Aaron Dorf.

Section D (1) - Comment 3

I.A. Background Information, General Information Table 2

The Fact Sheet information is out of date. The following outfalls no longer discharge from water-cooled transformers: 022, 023, 026, 027, 028, and 029. Additionally, by the end of 2020, outfalls 018, 019, 030, and 031 are scheduled to be discontinued.

Section D (1) - Comment 4

Facility Contact Table 4 - McNary Lock and Dam

The Corps requests that the facility Contact be changed to Timothy Roberts (OPM), (541) 219-2251.

Section D (1) - Comment 5

B. Permit History

Please correct the date to August 14, 2014.

Section D (1) - Comment 6

III. Effluent Limitations and Monitoring

The Fact Sheet references several Washington state permits to establish a dry dock discharge level of 5 mg/l daily maximum. That daily maximum is described in WA 0031411 as "Maximum daily effluent limit is the highest allowable daily discharge. The daily discharge is the average discharge of a pollutant measured during a calendar day. For pollutants with limits expressed in units of mass, calculate the daily discharge as the total mass of the pollutant discharged over the day." The permit limits for oil and grease should be modified to include this language.

Section D (1) - Comment 7

III. Effluent Limits and Monitoring

The site specific criteria in Oregon is 7 to 8.5 standard units. No processes that modify pH are in place at the hydropower facilities and there are only anecdotal reports that portions of the Columbia River may occasionally exceed these limits. The Corps recommends that language be added to the permit as follows: between 7-8.5, if the limit of 7-8.5 is exceeded pH must be within .5 standard units of influent.

Section D (1) - Comment 8

Table 18

Survival rates estimated for the following projects do not represent the complete study results:

-Bonneville is reported to be 96-98% survival for 2011-2012. It should be 95-99% survival for 2006-2012 and 2018.

-The Dalles is reported to be 94-99% survival for 2010-2012. It should be 95-99% survival for 2010-2012 [this is likely a rounding error].

-John Day is reported to be 94-99% for 2011 & 2012. It should be 92-99% for 2010-2014.

Section D (1) - Comment 9

VII. Other Legal Requirements

The Corps requests a second comment period on the draft permits if any changes are made as a result of the Washington Department of Ecology's issuance of the Section 401 Certifications.

SECTION D (2) - Comments Specific to the Lower Snake River Fact Sheet:

Section D (2) - Comment 1

Table 1.

The Corps requests that the facility Contact be changed to Brian Vorheis (OPM), (509) 543-3256

Section D (2) - Comment 2

Table 2.

The Corps requests that the facility Contact be changed to Jeannette Wilson (OPM), (509) 282-7251

Section D (2) - Comment 3

Table 3.

The Corps requests that the facility Contact be changed to Norman Bloom (OPM), (509) 399-2233 ext. 251

Section D (2) - Comment 4

Table 4.

The Corps requests that the facility Contact be changed to Timothy Roberts (OPM), (541) 219-2251.

Section D (2) - Comment 5

I.C. Tribal Consultation

The Fact Sheet does not indicate the schedule associated with EPA's tribal consultation or what the implications are to the permit or permit conditions. EPA should provide rationale for not including other basin tribes. EPA should coordinate any conditions resulting from such consultation (if any) with the Corps before adding them to the draft permits.

Section D (2) - Comment 6

I.F. Types of Pollutants Associated with Facilities

The reference to PCBs in this section should be removed, as Table 9 (p.22) does not list PCBs as an effluent component. Section I.E does state, "Some transformers may have legacy polychlorinated biphenyls (PCBs), which can be released with cooling water," but that appears to be speculation, which does not justify the PCB monitoring, Plan and Report requirement.

Section D (2) - Comment 7

II.D. Impaired Waters/TMDLs and III. Effluent Limitations and Monitoring

The PCB monitoring, plan, and annual report should be removed from the permits. Prior sampling of permitted discharges have not identified any PCBs and there is no reason to believe the permitted discharges/outfalls may include PCBs in the future. The PCB monitoring, plan, and annual report requirements are not justified, unnecessary and overly burdensome, especially given the permits specifically prohibits the discharge of PCBs.

Section D (2) - Comment 8

II.D. Impaired Waters/TMDLs

Given the conclusions reached by EPA, there is very little justification for requiring such robust (in-depth) water temperature monitoring and reporting. Table 10 shows no increase of effluent from background influent at three of the four lower Snake River dams and only a minor increase at Little Goose.

Section D (2) - Comment 9

II.D. Impaired Waters/TMDLs

EPA makes, at most, a case for limited monitoring and data collection (i.e., limited data set). The fact that "temperature is important in the Snake River" does not justify robust and expensive monitoring given the best available information and conclusions provided in this section. EPA acknowledges *de minimis* temperature influences from cooling water uses on overall river temperatures, yet requires a continuous representative sample point per outfall type.

Section D (2) - Comment 10

II.D. Impaired Waters/TMDLs

Please clarify which heat pump EPA believes is discharging COD. EPA does not adequately justify this quarterly monitoring requirement associated with the unspecified heat pump, which is not expected to add or concentrate organic material.

Section D (2) - Comment 11

III. Effluent Limitations and Monitoring - Table 11

Current hydrocarbon monitors (at least from 2012 timeframe, approximately) are only reliable down to 10ppm. Measuring at the level included will require laboratory analyses. The

basis for this effluent level is anecdotal at best, being based on existing permits intended to establish (administrative) controls and the MDL (minimum detectable limit). The basis does not cite concentrations that produce a sheen, which is the specific requirement. The Corps requests that the limitation be increased to 15 mg/L.

Section D (2) - Comment 12

III. Effluent Limitations and Monitoring

The Fact Sheet references several Washington state permits to establish a dry dock discharge level of 5 mg/l daily maximum. That daily maximum is described in WA 0031411 as "Maximum daily effluent limit is the highest allowable daily discharge. The daily discharge is the average discharge of a pollutant measured during a calendar day. For pollutants with limits expressed in units of mass, calculate the daily discharge as the total mass of the pollutant discharged over the day." The permit limits for oil and grease should be modified to include this language.

Section D (2) - Comment 13

III. Effluent Limits and Monitoring

The site specific criteria in Oregon is 6.5 to 8.5 standard units. No processes that modify pH are in place at the hydropower facilities, and there are only anecdotal reports that portions of the Columbia River may occasionally exceed these limits. The Corps recommends that language be added to the permit as follows: between 6.5-8.5, if the limit of 6.5-8.5 is exceeded, pH must be within .5 standard units of influent.

Section D (2) - Comment 14

III. Effluent Limitations and Monitoring

The Corps does not believe any BMPs are warranted due to work practices that are already in place, and the Fact Sheet seems to support this reasoning in Section III with recognition of the low effluent concentrations of oil and grease.

Section D (2) - Comment 15

III. Effluent Limitations and Monitoring

The PCB monitoring, plan, and annual report should be removed from the permits. Prior sampling of permitted discharges have not identified any PCBs and there is no reason to believe the permitted discharges/outfalls may include PCBs in the future. The PCB monitoring, plan, and annual report requirements are not justified, unnecessary, and are overly burdensome, especially given the permits specifically prohibits the discharge of PCBs. If EPA includes any PCB monitoring or reporting requirements in the permits, the requirement to include a list describing all sources of PCBs on the premises previously removed, replaced, remediated, or reclassified should be removed as unnecessary and overly burdensome, as these materials have already been removed and cannot result in a discharge relevant to the permit. The same is true for the requirement to describe actions that have been established prior to the issuance of this permit to prevent and/or track releases of PCBs from potential PCB sources.

Section D (2) - Comment 16

III. Effluent Limitations and Monitoring

The minimal impact (*see* Table 10) does not justify the robust and expensive temperature monitoring and reporting requirements.

Section D (2) - Comment 17

IV. Monitoring and Reporting Requirements

The minimal impact (*see* Table 10) does not justify the robust and expensive temperature monitoring and reporting requirements.

Section D (2) - Comment 18

V. Special Conditions

The PCB Management Plan and reporting requirements are overly broad and unjustified, especially given the permits specifically prohibit the discharge of PCBs. The permit Fact Sheets do not identify any historic sampling that has found discharges of PCBs from the identified outfalls and there is no indication that permitted discharges/outfalls may include PCBs in the future. 33 U.S.C. § 1314(e) [Section 304(e)] does authorize EPA to promulgate regulations to establish BMPs at the facility to prevent runoff, spillage or leaks of toxic substances (e.g., PCBs) located at a facility, but there must be some indication such toxic substances “may contribute significant amounts of such pollutants to navigable waters.” In other words, there must be some reasonable likelihood the PCBs will become part of the permitted discharges.

Similarly, 40 C.F.R. § 122.44(k) allows establishment of BMPs to “control or abate the discharge of pollutants.” However, there should be some likelihood the PCBs will become part of the permitted discharges to justify the expense, resources and effort needed to comply with such PCB requirements. Sampling and identification of PCB containing equipment has historically been conducted at the facilities as required by the TSCA. The PCB requirements go well beyond the TSCA and are unnecessary given the lack of PCBs in any of the samples submitted to EPA during the application process. The PCB monitoring, plan, and annual reporting requirements are not justified, are overly burdensome, and should be removed from the permits. If EPA includes any PCB monitoring or reporting requirements in the permits, the requirement to include a list describing all sources of PCBs on the premises previously removed, replaced, remediated or reclassified should be removed as unnecessary and overly burdensome, as these materials have already been removed and cannot result in a discharge relevant to the permit. The same is true for the requirement to describe actions that have been established prior to the issuance of this permit to prevent and/or track releases of PCBs from potential PCB sources.

Section D (2) - Comment 19

V. Special Conditions:

Table 18 mentions "Turbine routes: operate turbines at +/- 1% peak efficiency flows, operate turbines in priority order to maximize fish passage." Table 18 should also mention that

the Corps has installed one fish friendly turbine (FFT) at Ice Harbor Dam, with a second FFT in progress, and plans for 14 FFTs at McNary Dam over the next 20 years.

Section D (2) - Comment 20

V. Special Conditions

The Corps requests that plan development is within 12 months from receiving authorization to discharge from EPA.

Section D (2) - Comment 21

V. Special Conditions

The Corps requests that the annual report submittal be February 28 for the previous year's annual report to align with the Corps' other reporting requirements.

Section D (2) - Comment 22

VI. Environmental Justice Considerations

EPA is permitting the discharges from a discrete point source at a currently operating federal facility, not the facility as a whole. Additionally, this section does not identify the "Census block group" or why/how the discharges would affect the group? The Corps recommends that the entire Environmental Justice section be deleted.

Section D (2) - Comment 23

VII. Other Legal Requirements, A. State Certification

The Corps requests a second comment period on the draft permits if any changes are made as a result of the State of Washington's Section 401 certification.

Section D (2) - Comment 24

VII. Other Legal Requirements, B. Endangered Species Act

Please define what "working with" the Services on ESA consultation means. The Corps requests a second comment period on the draft NPDES permits if any changes are made as a result of EPA's ESA consultation with the Services.

Section D (2) - Comment 25

VII. Other Legal Requirements, B. Endangered Species Act

Species found only in lower Columbia River should be removed from the lower Snake River Fact Sheet (e.g., Pacific eulachon/smelt).

Section D (2) - Comment 26

Documents available for further review

The Corps recommends that EPA fix the hyperlink and extend review/comment period by 60 days to allow for review of any ‘additional information’ that EPA may have used in their evaluation.

Section D (2) - Comment 27

Documents available for further review

Figure 7 (and other maps throughout) is of poor resolution and is unreadable. Please reproduce the maps and figures in the permit at a higher level of resolution to ensure readability. Consider other picture file types that scale better or covert more clearly to PDF.

Section D (2) - Comment 28

Table 18

The Corps noticed that:

-No data is reported for Lower Granite. Dam passage survival is estimated to be 92-99% for 2006 & 2018.

-No data is reported for Ice Harbor. Dam passage survival is estimated to be 95-99% for 2006 & 2007.

The Corps appreciates the opportunity to submit these comments for consideration. We look forward to continuing to work closely with EPA on the draft NPDES permits for the four lower Snake River and four lower Columbia River projects. If you have any questions regarding the comments above, please contact Ms. Patti Williams at 503-808-3897.

Sincerely,

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Tony R. Kirk
Chief, PDS Operations Division
Northwestern Division, USACE



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NORTHWESTERN DIVISION
PO BOX 2870
PORTLAND, OR 97208-2870

April 10, 2020

SUBJECT: USACE Comments on Washington State Department of Ecology's 23 March 2020 Public Notice requesting comments on EPA's request for Section 401 certification for draft NPDES permits for eight (8) lower Snake River and lower Columbia River dams.

Angela Zeigenfuse
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Dear Ms. Zeigenfuse,

On behalf of the U.S. Army Corps of Engineers ("Corps") Northwestern Division, I submit the following comments on the Washington State Department of Ecology's ("Ecology") 23 March 2020 Public Notice that requested comments on the Environmental Protection Agency's ("EPA") request for Clean Water Act Section 401 Certification for the draft National Pollutant Discharge Elimination System ("NPDES") permits for the Corps' four lower Snake River and four lower Columbia River dams.

The Corps, as the applicant for the subject NPDES permits (and arguably, the Section 401 certification¹), requests a copy of the draft Section 401 Certification prior to Ecology finalizing the Certification in order to allow the Corps an opportunity to review the conditions and/or submit more detailed and specific comments. The Corps is aware that Ecology has afforded other applicants an opportunity to review draft certifications in the past (e.g. Public Utility District No. 1 of Chelan County for the Lake Chelan Hydroelectric Project), and would appreciate having the same opportunity to review this certification. Additionally, the Corps requests to work collaboratively with Ecology on the conditions that you are anticipating including in the Section 401 Certification to ensure that they are implementable.

If Ecology is not able to share the draft Section 401 Certification with the Corps, the Corps submits the following general comments:

1. Given the long-term and ongoing existence and operation of the federal dams, and the minimal effects to water quality from discharges identified in the draft NPDES

¹ Under Section 401(a)(1) of the Clean Water Act, "[a]ny applicant for a Federal...permit to conduct any activity...which may result in any discharge into navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate[.]" 33 U.S.C. § 1341(a)(1).

permits, Ecology should consider expressly waiving certification, in accordance with 40 C.F.R. § 121.16(a). Absent waiver, Ecology should issue a certification without any conditions. EPA's draft NPDES permits have established effluent limitations and other requirements to ensure the Corps will not violate Washington's water quality standards.

2. Conditions (if included in a certification) should be focused on ensuring that the *discharges* do not violate state water quality standards, as opposed to the facilities as a whole. The contents of a certification may include “[a] statement of any conditions which the certifying agency deems necessary or desirable with respect to the discharge of the activity[.]” 40 C.F.R. § 121.2(a)(4). Similarly, Ecology's 23 March 2020 *Public Notice* acknowledged that “[t]he state certification evaluates whether the *discharge* will comply with the applicable provisions of sections 301, 302, 306, and 307 of the [Clean Water Act] and appropriate requirements of state law.” (emphasis added). That statement is consistent with Executive Order 13868 (April 10, 2019), EPA's associated guidance, *Clean Water Act Section 401 Guidance for Federal Agencies, States and Authorized Tribes* (June 7, 2019) and EPA's proposed revised regulations for 40 C.F.R. Part 121 (84 FR 44080). Of note, the proposed § 121.3 regulation “Scope of certification” states: “[t]he scope of a Clean Water Act section 401 certification is limited to assuring that a *discharge* from a Federally licensed or permitted activity will comply with water quality requirements.” (emphasis added).

3. The Corps acknowledges that Ecology has issued 401 certifications for numerous dams in Washington. However, to the Corps' knowledge, all of the 401 certifications have been issued to non-federal applicants for a Federal Energy Regulatory Commission (FERC) license. Licenses issued by FERC under the Federal Power Act allow the construction and operation or continued operation of non-federal dams for 30 to 50 years. The construction and/or operation of the dam and its attendant effects (including water quality effects) will not occur without a license by FERC. The construction and operation of the Corps' dams at issue here were Congressionally-authorized many years ago and do not require additional licensing, permits, or authorizations similar to a FERC relicensing for their continued operation. The federal action here that requires a 401 certification is a NPDES permit, which will authorize discharges of pollutants from discrete point sources. The scope of what a NPDES permit authorizes is much narrower than what a FERC license authorizes.

4. Any conditions should take into account that historic river temperatures in the lower Snake River (pre-dams) would exceed the State's current water quality standard (20°C). The draft NPDES permits and associated Fact Sheets do not identify any increase in temperature from discharges at the discrete point sources at six dams, and only cite to negligible increase at two dams. See Section II.D and Table 10, EPA's March 18, 2020 Lower Snake River Hydroelectric Facilities Fact Sheet.

5. Conditions should not impair the Corps' ability to effectively operate and maintain the dams for the multiple Congressionally-authorized purposes, nor interfere with the Corps' compliance with other laws.

The Corps appreciates the opportunity to submit these comments for consideration in the Section 401 Certification. We look forward to continuing to work closely with Ecology on the Section 401 Certification for the four lower Snake River and four lower Columbia River projects. If you have any questions regarding the comments above, please contact Ms. Patti Williams at 503-808-3897.

Sincerely,

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Tony R. Kirk
Chief, PDS Operations Division