

Official Draft Public Notice Version **September 30, 2014**

The findings, determinations, and assertions contained in this document are not final and subject to change following the public comment period.

STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH

AUTHORIZATION TO DISCHARGE UNDER THE
UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM (UPDES)

In compliance with provisions of the Utah *Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"),

PARK CITY MUNICIPAL CORPORATION

is hereby authorized to discharge from its drinking water/waste water treatment system associated with the **Spiro Mine Tunnel**, currently located at 1884 Three Kings Drive, in Park City, Summit County, Utah, to receiving waters named

McLEOD AND SILVER CREEK, THENCE THE WEBER RIVER

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

This permit shall become effective on **XXXXXXXX**.

This permit expires at midnight on **XXXXXXXXXX**.

Signed this **XXXX** day of **XXXXXXXXXX**.

Walter L. Baker, P.E.
Director

Table of Contents

I.	DISCHARGE – LIMITATIONS AND REPORTING REQUIREMENTS	3
A.	Description of Discharge Point	3
B.	Narrative Standard	3
C.	Specific Limitations and Monitoring Requirements	4
D.	Reporting of Wastewater Monitoring Results	9
II.	MONITORING, RECORDING & GENERAL REPORTING REQUIREMENTS	10
A.	Representative Sampling	10
B.	Monitoring Procedures	10
C.	Penalties for Tampering	10
D.	Compliance Schedules	10
E.	Additional Monitoring by the Permittee	10
F.	Records Contents	10
G.	Retention of Records	10
H.	Twenty-four Hour Notice of Noncompliance Reporting	11
I.	Other Noncompliance Reporting	12
J.	Inspection and Entry	12
III.	COMPLIANCE RESPONSIBILITIES	13
A.	Duty to Comply	13
B.	Penalties for Violations of Permit Conditions	13
C.	Need to Halt or Reduce Activity not a Defense	13
D.	Duty to Mitigate	13
E.	Proper Operation and Maintenance	13
F.	Removed Substances	13
G.	Bypass of Treatment Facilities	14
H.	Upset Conditions	15
I.	Toxic Pollutants	16
J.	Changes in Discharge of Toxic Substances	16
K.	Industrial Pretreatment	17
IV.	GENERAL REQUIREMENTS	18
A.	Planned Changes	18
B.	Anticipated Noncompliance	18
C.	Permit Actions	18
D.	Duty to Reapply	18
E.	Duty to Provide Information	18
F.	Other Information	18
G.	Signatory Requirements	18
H.	Penalties for Falsification of Reports	19
I.	Availability of Reports	20
J.	Oil and Hazardous Substance Liability	20
K.	Property Rights	20
L.	Severability	20
M.	Transfers	20
N.	State Laws	20
O.	Water Quality - Reopener Provision	21
P.	Toxicity Limitation - Reopener Provision	21
Q.	Storm Water-Reopener Provision	21
V.	DEFINITIONS	22

I. DISCHARGE – LIMITATIONS AND REPORTING REQUIREMENTS

A. Description of Discharge Point

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a Utah Pollutant Discharge Elimination System permit are violations of the *Act* and may be subject to penalties under the *Act*. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the *Act*.

Outfall Number

Location of Discharge Point

001

Outfall 001 is a sample point for the Spiro Tunnel “Bulkhead” flow discharge water. This sample point is located at the discharge of the feed line of the “Bulkhead” flow from the Spiro Tunnel as it enters the Spiro Water Treatment Plant. This outfall is located at a latitude of 40° 39’ 39.14 ” N and a longitude of 111° 30’ 58.22” W. Samples collected at and/or near this location will be representative of flows between the tunnel and inside the Spiro Water Treatment Plant.

002

Outfall 002 is a sample point for the Spiro Tunnel “Portal” flow discharge water. This sample point is located at the discharge of the feed line of the “Portal” flow as it enters the Spiro Water Treatment Plant. This outfall is located at a latitude of 40° 39’ 39.14 ” N and a longitude of 111° 30’ 58.22” W. Samples collected at and/or near this location will be representative of flows between the tunnel and inside the Spiro Water Treatment Plant.

B. Narrative Standard.

It shall be unlawful, and a violation of this permit, for the permittee to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum, or other nuisances such as color, odor or taste, or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable

physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by a bioassay or other tests performed in accordance with standard procedures.

C. Specific Limitations and Monitoring Requirements.

1. Toxicity Limitations for Outfalls 001 and 002.

Effective on a schedule in accordance with the Stipulated Compliance Order, Docket # M14-01, incorporated by reference herein, there shall be no acute or chronic toxicity in the discharge as defined in *Part V*, and determined by test procedures described in *Part I.C.2 & 3* of this permit.

2. Discharge Limitations, Monitoring and Compliance Schedule.

The permittee is authorized to discharge from Outfall 001 and Outfall 002. **In accordance with the dates identified in the Stipulated Consent Order Docket #M14-01, Outfalls 001 and 002 will be subject to the discharge parameter limitations in Table 1 below. Monitoring and reporting only will be required during the duration of this permit term, at the frequencies shown in Table 2 below.**

Table 1, Future Effluent Limitations for Outfalls 001 and 002 ^{a/, b/}			
Parameter	Maximum Monthly Average	Daily Minimum	Daily Maximum
Total Recoverable Antimony, ug/l Based on human health criteria	5.6	NA	NA
Total Recoverable Arsenic, ug/l daily max based on IC	NA	NA	10
Total Recoverable Cadmium, ug/l Based on 3A	.75	NA	8.7
Total Recoverable Selenium, ug/l Based on 3A	4.6	NA	18.4
Total Recoverable Thallium, ug/l Based on human health criteria	0.24	NA	NA
Total Recoverable Zinc, ug/l Based on 3A	388	NA	388
TSS, mg/l Based on Based on BPJ and secondary treatment standards	25	NA	35
pH, Standard Units Based on secondary treatment standards	NA	6.5	9.0

Dissolved Oxygen, mg/l Based on 3A	NA	5	NA
Chronic Biomonitoring	NA	NA	Pass/Fail

NA – Not Applicable.

a/ Final effluent limitations for Outfalls 001 and 002 will become effective in a future permit in accordance with the Stipulated Compliance Order, Docket #M14-01.

b/ During the duration of this permit the Judge Tunnel Pipeline (JTPL) will be completed, which will allow conveyance of Judge Tunnel water to the vicinity of the Spiro Treatment Plant. During this permit term and until completion of final treatment facilities at Spiro WTP, only de-minimus flows of Judge water may be discharged from the Spiro Treatment plant site and area. Such occasional discharges would be for treatment modeling and pilot testing purposes only.

Starting immediately and lasting throughout the permit term, Outfalls 001 and 002 are subject to the Self-Monitoring and Reporting Requirements in Table 2 below:

Parameter	Frequency	Sample Type	Units
Flow a/	Continuous	Recorder	MGD
Total Recoverable Antimony	Quarterly	Composite	ug/L
Total Recoverable Arsenic	Quarterly	Composite	ug/L
Total Recoverable Cadmium	Quarterly	Composite	ug/L
Total Recoverable Selenium	Quarterly	Composite	ug/L
Total Recoverable Thallium	Quarterly	Composite	mg/L
Total Recoverable Zinc	Quarterly	Composite	ug/L
TSS	Quarterly	Composite	mg/L
Dissolved Oxygen	Quarterly	Grab	mg/L
pH	Quarterly	Grab	Standard Units
Chronic Biomonitoring	2 tests in permit term ^{b/}	Grab	IC25 > 100% effluent Pass/Fail

a/ An estimated daily average flow over the reporting period shall be reported for each outfall.

b/ Two chronic WET tests will be performed during the permit term on effluent from a pilot scale treatment plant of representative effluent from the blended Judge and Spiro feedwaters. The blended feeds will be representative of actual ratios of feedwaters from the two tunnels that will result from the management configuration of the finished treatment project for both tunnel effluent streams. One WET test will be performed during the high flow Spring period and the other separated by approximately six months during the low flow Fall period. The chronic test will be run on the two species, Ceriodaphnia dubia (water flea) and Pimephales promelas (fathead minnow). The chronic WET tests will be done in accordance with Section I. 3. B). If toxicity is detected no further investigation or testing will be required during this permit period.

3. Chronic Whole Effluent Toxicity Testing.

PART I
DISCHARGE PERMIT NO. UT0025461

The following procedural requirements in Section I. 3. are included to comply with the EPA requirement that permit limits must be included in permits where the compliance schedule will extend beyond the term of the permit.

a) *Whole Effluent Testing – Chronic Toxicity.*

Starting at the same time that future effluent limits are in effect, the permittee shall conduct quarterly chronic toxicity tests on a composite sample of the final effluent. The samples shall be collected at 001, and 002. If chronic toxicity is detected, the test shall be repeated in less than four weeks from the date the initial sample was taken. . If the second test shows no chronic toxicity, routine monitoring shall be resumed. A pattern of chronic toxicity is established if the second test (or two chronic tests in a row) show toxicity. The need for any additional samples, and/or a Preliminary Toxicity Investigation or a Toxicity Reduction Evaluation, (see *Part I.C.3.c*) shall be determined by the Director

The chronic toxicity tests shall be conducted in general accordance with the procedures set out in the latest revision of *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms, 4th Edition, (EPA 821/R-02-13), October 2002* as per *40 CFR 136.3(a) TABLE 1A-LIST OF APPROVED BIOLOGICAL METHODS*. Test species shall consist of Ceriodaphnia dubia and Pimephales promelas (fathead minnow). A CO₂ atmosphere may be used (in conjunction with an unmodified test) in order to account for artificial pH drift, as previously demonstrated to and authorized by the Director. Chronic toxicity occurs when the IC25 is less than or equal to an effluent concentration of 100%.. If any of the acceptable control performance criteria are not met, the test shall be considered invalid.

Quarterly test results shall be reported along with the Discharge Monitoring Report submitted for the end of the reporting calendar quarter (e.g., biomonitoring results for the calendar quarter ending March 31 shall be reported with the Discharge Monitoring Report due April 28, with the remaining biomonitoring reports submitted with Discharge Monitoring Report due each July 28, October 28, and January 28). All test results shall be reported along with the Discharge Monitoring Report submitted for that reporting period. The format for the report shall be consistent with the latest revision of the *Region VIII Guidance for Chronic Whole Effluent Reporting* and shall include all the physical testing as specified.

If the results for a minimum of ten consecutive tests indicate no chronic toxicity, the permittee may request a reduction in testing frequency and/or reduction to one species. The Director may approve, partially approve, or

deny the request based on results and other available information. If approval is given, the modification will take place without a public notice.

The current Utah whole effluent toxicity policy is in the process of being updated and revised to assure its consistency with the Environmental Protection Agency's national and regional whole effluent toxicity policy. When said revised whole effluent toxicity policy has been finalized and officially adopted, this permit will be reopened and modified to incorporate satisfactory follow-up chronic toxicity language (chronic pattern of toxicity, (preliminary toxicity investigation, toxicity identification evaluation and toxicity reduction evaluation, etc.) without a public notice, as warranted and appropriate.

- b) *Accelerated Testing.* When **toxicity** is indicated during routine biomonitoring as specified in this permit, the permittee shall notify the Director in writing within five (5) days after becoming aware of the test result. The permittee shall perform an accelerated schedule of biomonitoring to establish whether a pattern of toxicity exists as detailed above.
- c) *Preliminary Toxicity Investigation.*
- (1) When a pattern of toxicity is detected the permittee will notify the Director in writing within five (5) days and begin an evaluation of the possible causes of the toxicity. The permittee will have fifteen (15) working days from demonstration of the pattern to complete a Preliminary Toxicity Investigation and submit a written report of the results to the Director. The Preliminary Toxicity Investigation may include, but is not limited to, additional chemical and biological monitoring, examination of pretreatment program records, examination of discharge monitoring reports, a thorough review of the testing protocol, evaluation of treatment processes and chemical use, inspection of material storage and transfer areas to determine if a spill may have occurred, and similar procedures.
 - (2) If the Preliminary Toxicity Investigation identifies a probable toxicant and/or a probable source of toxicity the permittee shall submit, as part of its final results written notification of that effect to the Director. Within thirty (30) days of completing the Preliminary Toxicity Investigation the permittee shall submit for approval a control program to control effluent toxicity and shall proceed to implement such a plan within seven (7) days following approval. The control program, as submitted to or revised by the Director, may be incorporated into the permit.
 - (3) If no probable explanation for toxicity is identified in the Preliminary Toxicity Investigation, the permittee shall notify the Director as part of

its final report, along with a schedule for conducting a Phase I Toxicity Reduction Evaluation (See *Part I.C.3.f, Toxicity Reduction Evaluation*).

- (4) If toxicity spontaneously disappears during the Preliminary Toxicity Investigation, the permittee shall submit written notification to that effect to the Director as part of the reporting requirements of paragraph a, of this section (*Whole Effluent Testing – Chronic Toxicity*).
- d) *Toxicity Reduction Evaluation*. If toxicity is detected during the life of this permit and it is determined by the Director that a Toxicity Reduction Evaluation is necessary, the permittee shall be so notified and shall initiate a Toxicity Reduction Evaluation immediately thereafter. The purpose of the Toxicity Reduction Evaluation will be to establish the cause of toxicity, locate the source(s) of the toxicity, and control or provide treatment for the toxicity.

A Toxicity Reduction Evaluation may include but is not limited to one, all, or a combination of the following:

- (1) Phase I – Toxicity Characterization
- (2) Phase II – Toxicity Identification Procedures
- (3) Phase III – Toxicity Control Procedures
- (4) Any other appropriate procedures for toxicity source elimination and control.

If the Toxicity Reduction Evaluation establishes that the toxicity cannot be immediately eliminated, the permittee shall submit a proposed compliance plan to the Director. The plan shall include the proposed approach to control toxicity and a proposed compliance schedule for achieving control. If the approach and schedule are acceptable to the Director, this permit may be reopened and modified.

If the Toxicity Reduction Evaluation shows that the toxicity is caused by a toxicant(s) that may be controlled with specific numerical limitations, the permittee may:

- (a) Submit an alternative control program for compliance with the numerical requirements.
- (b) If necessary, provide a modified biomonitoring protocol, which compensates for the pollutant(s) being controlled numerically.

PART I
DISCHARGE PERMIT NO. UT0025461

If acceptable to the Director, this permit may be reopened and modified to incorporate any additional numerical limitations, a modified compliance schedule if judged necessary by the Director, and/or a modified biomonitoring protocol.

Failure to conduct an adequate Toxicity Reduction Evaluation, or failure to submit a plan or program as described above, or the submittal of a plan or program judged inadequate by the Director, shall be considered a violation of this permit.

D. Reporting of Wastewater Monitoring Results.

1. Monitoring results obtained during the previous quarter shall be summarized for each quarter and reported on a DMR Form (EPA No. 3320-1), post-marked no later than the 28th day of the month following the completed reporting period. Lab sheets for biomonitoring must be attached to the biomonitoring Discharge Monitoring Report forms. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports shall be signed and certified in accordance with the requirements of *Signatory Requirements (Part V.G.)*, and submitted by NetDMR, or submitted to the Division of Water Quality at the following address:

original to: Department of Environmental Quality
 Division of Water Quality
 195 North 1950 West
 PO Box 144870
 Salt Lake City, Utah 84114-4870

II. MONITORING, RECORDING & GENERAL REPORTING REQUIREMENTS

A. Representative Sampling.

Samples taken in compliance with the monitoring requirements established under Part I shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

B. Monitoring Procedures.

Monitoring must be conducted according to test procedures approved under *Utah Administrative Code R317-2-10* unless other test procedures have been specified in this permit.

C. Penalties for Tampering.

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 per violation, or by imprisonment for not more than six months per violation, or by both.

D. Compliance Schedules.

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.

E. Additional Monitoring by the Permittee.

If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under *Utah Administrative Code R317-2-10* or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.

F. Records Contents.

Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) and time(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and,
6. The results of such analyses.

G. Retention of Records.

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring

instrumentation, copies of all reports required by this permit, 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 the Director at any time. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location.

H. Twenty-four Hour Notice of Noncompliance Reporting.

1. The permittee shall (orally) report any noncompliance including transportation accidents, spills, which may seriously endanger health or environment, as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of circumstances. The report shall be made to the Division of Water Quality, (801) 536-4300, or 24-hour answering service (801) 536-4123.
2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4123 as soon as possible but no later than 24 hours from the time the permittee becomes aware of the circumstances:
 - a) Any noncompliance which may endanger health or the environment;
 - b) Any unanticipated bypass, which exceeds any effluent limitation in the permit (See *Part III.G, Bypass of Treatment Facilities.*);
 - c) Any upset which exceeds any effluent limitation in the permit (See *Part III.H, Upset Conditions.*);
 - d) Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit; or,
3. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a) A description of the noncompliance and its cause;
 - b) The period of noncompliance, including exact dates and times;
 - c) The estimated time noncompliance is expected to continue if it has not been corrected;
 - d) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and,
 - e) Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.

PART II
DISCHARGE PERMIT NO. UT0025461

4. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Division of Water Quality, (801) 536-4300.
5. Reports shall be submitted to the addresses in *Part I.D, Reporting of Monitoring Results*.

I. Other Noncompliance Reporting.

Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for *Part I.D* are submitted. The reports shall contain the information listed in *Part II.H.3*.

J. Inspection and Entry.

The permittee shall allow the Director, or an authorized representative, 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 the 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, collection, storage facilities or area, transport vehicles and containers.
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.
5. The permittee shall make the necessary arrangements with the landowner or leaseholder to obtain permission or clearance, the Director, or authorized representative, upon the presentation of credentials and other documents as may be required by law, will be permitted to enter without delay for the purposes of performing their responsibilities.

III. 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. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.

B. Penalties for Violations of Permit Conditions.

The Act provides that any person who violates a permit condition implementing provisions of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions or the Act is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under *Utah Code Annotated 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at *Part III.G, Bypass of Treatment Facilities* and *Part III.H, Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

C. Need to Halt or Reduce Activity not a Defense.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate.

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or prevent any land application in violation of this permit.

E. Proper Operation and Maintenance.

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Removed Substances.

Collected screening, grit, solids, sludge, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge supernatant and filter backwash shall not directly enter either the final effluent or waters of the state by any other direct route.

G. Bypass of Treatment Facilities.

1. Bypass Not Exceeding Limitations. The permittee may allow any bypass to occur which 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 *paragraph 2 and 3* of this section.
2. Prohibition of Bypass.
 - a) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
 - 1) Bypass was unavoidable to prevent loss of human life, personal injury, or severe property damage;
 - 2) There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and
 - 3) The permittee submitted notices as required under *section III.G.3.*
 - b) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in *sections III.G.2.a (1), (2) and (3).*
 - c) The Director has approved the following categories of allowed infrequent bypasses, which meet the criteria identified in section III.G.2.a. if such bypasses will occur for no more than a cumulative 30 days in a calendar year. Any bypasses that exceed the 30 day cumulative maximum in a calendar year must be approved in writing by the Director in response to a written request by the permittee which fully documents the circumstances, cause and need for the bypass. Such bypasses must meet the criteria identified in Section III. G. 2.a). The permittee shall still comply with the notice requirements of Section III.G.2.a for any such bypasses:
 - (1) Bypass necessitated by mine tunnel collapse or other major incident affecting the mine tunnel or flow of water from it;
 - (2) Bypass necessitated by flooding caused by excessively high flows from mine tunnel;
 - (3) Bypass necessitated by demolition and construction necessary to install treatment facilities needed to meet final effluent or

drinking water standards; and

(4) Bypass necessitated by mine tunnel maintenance and repair.

3. Notice.

- a) Anticipated bypass. Except as provided above in *section III.G.2* and below in *section III.G.3.b*, if the permittee knows in advance of the need for a bypass, it shall submit prior notice, at least ninety days before the date of bypass. The prior notice shall include the following unless otherwise waived by the Director:
- 1) Evaluation of alternative to bypass, including cost-benefit analysis containing an assessment of anticipated resource damages;
 - 2) A specific bypass plan describing the work to be performed including scheduled dates and times. The permittee must notify the Director in advance of any changes to the bypass schedule;
 - 3) Description of specific measures to be taken to minimize environmental and public health impacts;
 - 4) A notification plan sufficient to alert all downstream users, the public and others reasonably expected to be impacted by the bypass;
 - 5) A water quality assessment plan to include sufficient monitoring of the receiving water before, during and following the bypass to enable evaluation of public health risks and environmental impacts; and,
 - 6) Any additional information requested by the Director.
- b) Emergency Bypass. Where ninety days advance notice is not possible, the permittee must notify the Director, and the Director of the Department of Natural Resources, as soon as it becomes aware of the need to bypass and provide to the Director the information in *section III.G.3.a.(1) through (6)* to the extent practicable.
- c) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass to the Director as required under *Part II.H*, Twenty Four Hour Reporting. The permittee shall also immediately notify the Director of the Department of Natural Resources, the public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

H. Upset Conditions.

PART III
DISCHARGE PERMIT NO. UT0025461

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with permit effluent limitations if the requirements of *Paragraph 2* of this section are met. Director's administrative determination regarding a claim of upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b) The permitted facility was at the time being properly operated;
 - c) The permittee submitted notice of the upset as required under *Part II.H, Twenty-four Hour Notice of Noncompliance Reporting*; and,
 - d) The permittee complied with any remedial measures required under *Part III.D, Duty to Mitigate*.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

I. Toxic Pollutants.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of *The Water Quality Act of 1987* for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

J. Changes in Discharge of Toxic Substances.

Notification shall be provided to the Director as soon as the permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - 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;

PART III
DISCHARGE PERMIT NO. UT0025461

- c) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with *Utah Annotated Code R317-8-3.5(7)* or (10); or,
 - d) The level established by the Director in accordance with *Utah Annotated Code R317-8-4.2(6)*.
2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- 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 *Utah Annotated Code R317-8-3.5(9)*; or,
 - d) The level established by the Director in accordance with *Utah Annotated Code R317-8-4.2(6)*.

K. Industrial Pretreatment.

Any wastewaters discharged to the sanitary sewer, either as a direct discharge or as a hauled waste, are subject to Federal, State and local pretreatment regulations. Pursuant to Section 307 of *The Water Quality Act of 1987*, the permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at *40 CFR 403*, the State Pretreatment Requirements at *Utah Annotated Code R317-8-8*, and any specific local discharge limitations developed by the Publicly Owned Treatment Works accepting the wastewaters.

In addition, in accordance with *40 CFR 403.12(p)(1)*, the permittee must notify the Publicly Owned Treatment Works, the EPA Regional Waste Management Director, and the State hazardous waste authorities, in writing, if they discharge any substance into a Publicly Owned Treatment Works which if otherwise disposed of would be considered a hazardous waste under *40 CFR 261*. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).

IV. GENERAL REQUIREMENTS

A. Planned Changes.

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of parameters discharged or pollutant sold or given away. This notification applies to pollutants, which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, the permittee shall give notice to the Director of any planned changes at least 30 days prior to their implementation.

B. Anticipated Noncompliance.

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.

C. Permit Actions.

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

D. Duty to Reapply.

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

E. Duty to Provide Information.

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

F. Other Information.

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.

G. Signatory Requirements.

All applications, reports or information submitted to the Director shall be signed and certified.

PART IV
DISCHARGE PERMIT NO. UT0025461

1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a) The authorization is made in writing by a person described above and submitted to the Director, and,
 - b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. A duly authorized representative may thus be either a named individual or any individual occupying a named position.
3. Changes to authorization. If an authorization under *paragraph IV.G.2* is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of *paragraph IV.G.2* must be submitted to the Director 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 section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

H. Penalties for Falsification of Reports.

The *Act* 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 noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both.

I. Availability of Reports.

Except for data determined to be confidential under *Utah Annotated Code R317-8-3.2*, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Director. As required by the *Act*, permit applications, permits and effluent data shall not be considered confidential.

J. Oil and Hazardous Substance Liability.

Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the *Act*.

K. Property Rights.

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

L. Severability.

The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

M. Transfers.

This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Director at least 20 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the existing and new permittee's containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

N. 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 *Utah Code Annotated 19-5-117*.

O. Water Quality - Reopener Provision.

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:

1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
2. A revision to the current Water Quality Management Plan is approved and adopted which calls for different effluent limitations than contained in this permit.

P. Toxicity Limitation - Reopener Provision.

This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity testing, a whole effluent toxicity limitation, a compliance schedule, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is detected during the life of this permit.

Q. Storm Water-Reopener Provision.

At any time during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *Utah Annotated Code R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "waters-of-State".

V. DEFINITIONS

1. The "7-day (and weekly) average", other than for e-coli bacteria, fecal coliform bacteria, and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for e-coli bacteria, fecal coliform bacteria, and total coliform bacteria. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains Saturday.
2. The "30-day (and monthly) average," other than for e-coli bacteria, fecal coliform bacteria and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for e-coli bacteria, fecal coliform bacteria and total coliform bacteria. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
3. "Act," means the *Utah Water Quality Act*.
4. "Bypass," means the diversion of waste streams from any portion of a treatment facility.
5. "Chronic toxicity" occurs when the inhibitory concentration to 25% of the population (IC25) is less than or equal to 100% effluent.
6. "Composite Samples" shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:
 - a) Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
 - b) Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
 - c) Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
 - d) Continuous sample volume, with sample collection rate proportional to flow rate.

7. "CWA," means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.
8. "Daily Maximum" (Daily Max.) is the maximum value allowable in any single sample or instantaneous measurement.
9. "EPA," means the United States Environmental Protection Agency.
10. "Director," means Director of the Utah Water Quality Board.
11. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
12. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
13. "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.
14. "Upset," means an exceptional incident in which there is unintentional and temporary noncompliance with 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 preventative maintenance, or careless or improper operation.

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