

Lummi Gooseberry Point Wastewater Treatment Plant

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

**Authorization to Discharge Under the  
National Pollutant Discharge Elimination System**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et seq.*, as amended by the Water Quality Act of 1987, P.L. 100-4, the “Act”,

**Gooseberry Point Wastewater Treatment Plant  
Lummi Tribal Sewer and Water District (LTSWD)**  
2156 Lummi View Drive  
Bellingham WA 98226

is authorized to discharge from the *Gooseberry Point Wastewater Treatment Plant (WWTP)* discharging at the following location:

<b>Outfall</b>	<b>Receiving Water</b>	<b>Latitude</b>	<b>Longitude</b>
#001	Hale Passage	48° 43' 15" N (48.720833)	122° 39' 43" W (-122.661944)

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

**DRAFT**

\_\_\_\_\_  
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
Discharge Monitoring Reports (DMR)	DMRs are due monthly and must be postmarked by the 10th day of the following month.
Surface Water Monitoring	Surface water monitoring results must be submitted with DMRs and with the application for permit renewal.
Quality Assurance Plan (QAP)	The permittee must provide EPA with written notification that the Plan has been updated and is being implemented and reviewed with staff on an annual basis (see II.B). The written notification letter must be submitted with the January DMR of each subsequent year. The QAP itself must be kept on site and made available to EPA upon request.
Operation and Maintenance (O&M) Plan	The permittee must provide EPA 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 upon request.
NPDES Application Renewal	The application must be submitted at least 180 days before the expiration date of the permit (see V.B).
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).
Emergency Response and Public Notification Plan	The permittee must develop and implement an overflow emergency response and public notification plan. The permittee must submit written notice to EPA that the plan has been developed and implemented within 180 days of the effective date of this permit (see II.E).
Outfall Inspection	The permittee must conduct an outfall inspection within the permit term. The results must be submitted with the next permit application.

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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 outfall specified herein to Hale Passage 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

- The permittee must limit and monitor discharges from outfall 001 as specified in Table 1. All figures represent maximum effluent limits unless otherwise indicated. The permittee must comply with the effluent limits in the tables at all times unless otherwise indicated, regardless of the frequency of monitoring or reporting required by other provisions of this permit.

**Table 1. Effluent Limitations and Monitoring Requirements**

Parameter	Units	Effluent Limitations			Monitoring Requirements		
		Average Monthly Limit	Average Weekly Limit	Max Daily Limit	Sample Location	Sample Frequency	Sample Type
Flow	MGD	--	--	--	Influent and Effluent	Continuous	Recording
Total monthly flow <sup>1</sup>	MG	--	--	--	Effluent	1/month	Calculated
Biochemical Oxygen Demand (BOD <sub>5</sub> )	mg/L	30	45	--	Influent and Effluent	1/week	24-hour composite
	lb/day	94	141	--			
	% removal	≥85	--	--		1/month	Calculated <sup>2</sup>
Total Suspended Solids (TSS)	mg/L	30	45	--	Influent and Effluent	1/week	24-hour composite
	lb/day	94	141	--			
	% removal	≥85	--	--		1/month	Calculated <sup>2</sup>
Fecal Coliform Bacteria <sup>3</sup>	cfu / 100 mL	35	400	--	Effluent	1/week	Grab
Enterococci Bacteria	cfu / 100 mL	--			Effluent	1/week	Grab
Total Residual Chlorine (TRC) <sup>4,5</sup>	mg/L	0.18	--	0.52	Effluent	Daily	Grab
pH	std units	Between 6.0 and 9.0 at all times			Effluent	Daily	Grab

Temperature	°C	--	Effluent	1/week	Grab
Dissolved Oxygen (DO)	mg/L	--	Effluent	1/month	Grab
Total Ammonia	mg/L N	--	Influent and Effluent	1/month	24-hour composite
Nitrate plus Nitrite	mg/L N	--	Influent and Effluent	1/month	24-hour composite
Total Kjeldahl Nitrogen (TKN)	mg/L N	--	Influent and Effluent	1/month	24-hour composite
CBOD <sub>5</sub>	mg/L	--	Influent and Effluent	1/month	24-hour composite
Total Organic Carbon (TOC)	mg/L	--	Effluent	1/month	24-hour composite
Total Inorganic Nitrogen (TIN) <sup>6</sup>	mg/L N	--	Effluent	1/month	Calculated
	lb/day <sup>7</sup>				
Average Monthly TIN <sup>8</sup>	lbs	--	Effluent	1/month	Calculated
Annual TIN, to date <sup>9</sup>	lbs	--	Effluent	1/month	Calculated
Oil and Grease	mg/L	--	Effluent	Quarterly (for one year) <sup>10</sup>	Grab
Total Dissolved Solids (TDS)	mg/L	--	Effluent	Quarterly (for one year) <sup>10</sup>	24-hour composite
Effluent testing as required by Form 2A Tables A and B <sup>11</sup>		--	Effluent	1/year	--

1. Total monthly flow = sum of all daily flows for the reporting period.
2. The monthly average percent removal must be calculated from the arithmetic mean of the influent values and the arithmetic mean of the effluent values (both as concentrations) for that month. Influent and effluent samples must be taken over approximately the same time period.
3. The monthly average and weekly average must be measured as a geometric mean. No more than 10 percent of samples used to calculate the monthly average can exceed 400 cfu/100 ml. See Part VI for a definition of geometric mean.

4. The permittee has transitioned to a UV disinfection system but retains a chlorine limit in the event of failure of the UV system. Monitoring is only required if chlorine disinfection is used.
5. Reporting is required within 24 hours of a maximum daily limit or instantaneous maximum limit violation. See Parts I.B.3 and III.G of the Permit.
6. TIN (mg/L N) = total ammonia (mg/L N) + nitrate plus nitrite (mg/L N).
7. Calculate mass concurrently with the respective concentration of a sample using the following formula: concentration (in mg/L) X daily flow (in MGD) X conversion factor (8/34) = lb/day.
8. Calculate the monthly average TIN load (lb as N) using the following equation: monthly average TIN load (lb as N) = (( $\Sigma$  calculated TIN loads (lb/day N))/number of samples) X number of days in month.
9. Calculate the annual TIN, to date, using the following equation: annual TIN load (lb as N) =  $\Sigma$  (monthly average TIN loads, to date)
10. Quarterly sampling should occur during the fourth year of the new permit cycle.
11. See NPDES application Form 2A (EPA Form 3510-2A, revised 1-99) and I.B.8 of the permit. Frequency applies only to parameters not required elsewhere in the permit.

2. Narrative limitations:

- a) The permittee must not discharge floating, suspended, or submerged matter of any kind in concentrations causing nuisance or objectionable conditions or that may impair designated beneficial uses.
3. The permittee must report within 24 hours any violation of the weekly limit for the following pollutant: fecal coliform. Violations of all other effluent limits are to be reported at the time that discharge monitoring reports are submitted (See Parts III.B. *Reporting of Monitoring Results* and III.G. *Twenty-four Hour Notice of Noncompliance Reporting* of this permit).
4. The permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
5. For all effluent monitoring, the permittee must use sufficiently sensitive analytical methods which meet the following:
  - a) Parameters with an effluent limit. The method must achieve a minimum level (ML) less than the effluent limitation unless otherwise specified in Table 1.
  - b) Parameters that do not have effluent limitations.
    - (i) The permittee must use a method that detects and quantifies the level of the pollutant, or
    - (ii) The permittee must use a method that can achieve a maximum ML less than or equal to those specified in Appendix A.
  - c) For parameters that do not have an effluent limit, the permittee may request different MLs. The request must be in writing and must be approved by EPA.
  - d) See also Part III.C, Monitoring Procedures.
6. For purposes of reporting on the DMR for a single sample, if a value is less than the MDL, the permittee must report "less than {numeric value of the MDL}" and if a

value is less than the ML, the permittee must report “less than {numeric value of the ML}.”

7. For purposes of calculating monthly averages, zero may be assigned for values less than the MDL, and the {numeric value of the MDL} may be assigned for values between the MDL and the ML. If the average value is less than the MDL, the permittee must report “less than {numeric value of the MDL}” and if the average value is less than the ML, the permittee must report “less than {numeric value of the ML}.” If a value is equal to or greater than the ML, the permittee must report and use the actual value. The resulting average value must be compared to the compliance level, the ML, in assessing compliance.
8. The permittee must perform the effluent testing required by the NPDES application Form 2A (EPA Form 3510-2A, revised 3-2019). The permittee must submit the results of this testing with its application for renewal of this NPDES permit. To the extent that effluent monitoring required by other conditions of this permit satisfies this requirement, these samples may be used to satisfy the requirements of this paragraph.

### **C. Surface Water Monitoring Report (SWMRP)**

The permittee must conduct surface water monitoring. Temperature, pH, and salinity must occur monthly from June through October for two consecutive years, beginning in June 2022. Fecal coliform monitoring must occur quarterly and begin at the effective date of the permit. The program must meet the following requirements:

1. Surface water measurements must be conducted in the ambient waters of Hale Passage outside of the effluent mixing zone for the Gooseberry Point WWTP marine discharge (outside of 218.8 feet in any direction from a point on the surface directly above the diffuser).
2. Samples must be analyzed for the parameters listed in Table 2.
3. To the extent practicable, surface water sample collection must occur on the same day as effluent sample collection.
4. For all surface water monitoring, the permittee must use sufficiently sensitive analytical methods which meet the following:
  - a) The method must detect and quantify the level of the pollutant, or
  - b) The permittee must use a method that can achieve MLs less than or equal to those specified in Appendix A. The permittee may request different MLs. The request must be in writing and must be approved by EPA.
5. Quality assurance/quality control (QA/QC) plans for all the monitoring must be documented in the Quality Assurance Plan required under Part II.B.
6. Surface water monitoring results must be submitted to EPA in the monthly DMR and with the application for renewal of this permit. The permittee may submit the surface water monitoring report as an attachment to the DMR. The file name of



the electronic attachment must be as follows:

YYYY\_MM\_DD\_WA0025666\_SWMRP, where YYYY\_MM\_DD is the date that the permittee submits the report. At a minimum, the data report must include the following:

- a) Dates, times, locations, and depths of data collection/analysis.
- b) Results of the temperature, pH, and salinity monitoring.
- c) Probe device manufacturer ID's, relevant quality assurance/quality control (QA/QC) information, and any details that may explain data anomalies.

**Table 2. Surface Water Monitoring Requirements**

<b>Parameter</b>	<b>Units</b>	<b>Monitoring Frequency</b>	<b>Sample Type</b>
Temperature	°C	1/month, June to October for two consecutive years	Grab
pH	s.u.	1/month, June to October for two consecutive years	Grab
Salinity	ppt	1/month, June to October for two consecutive years	Grab
Fecal coliform	cfu/100 mL	Quarterly	Grab

## II. Special Conditions

### A. Operation and Maintenance Plan

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

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

The permittee may submit the written notification as an electronic attachment to the DMR. The file name of the electronic attachment must be as follows: YYYY\_MM\_DD\_WA0025666\_O&M\_50108, where YYYY\_MM\_DD is the date that the permittee submits the written notification. The plan must be retained on site and made available to EPA upon request.

### B. Quality Assurance Plan (QAP)

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

Within 180 days of the effective date of this permit, the permittee must submit written notice to 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\_WA0025666\_QAP\_55099, where YYYY\_MM\_DD is the date that the permittee submits the written notification. The Permittee must also certify to EPA that the QAP is being implemented and is reviewed with staff annually. Annual reviews will be registered with EPA by submittal of the staff attendance sheet used for the review sessions, along with a cover letter confirming the QAP review and identifying the enclosed attendance record. The annual QAP review letter and attendance sheet must be submitted with the January DMR of each subsequent year.

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

### **C. Facility Planning Requirement**

1. The maximum design flows and waste loads for the permitted facility are shown in Table 3.
2. If the facility meets certain conditions, they must develop a plan for maintaining adequate capacity.

- a) The condition to trigger plan development is as follows:
  - (i) Each month, the Permittee must record the average daily flow, BOD<sub>5</sub> loading, and TSS loading entering the facility for that month. When the actual flow or waste loads for any two months during a 12-month period exceed the facility planning values listed in Table 3, the permittee must develop a new or updated plan and schedule for continuing to maintain capacity and maintain compliance with effluent limits.
- b) Submittal. The plan must be submitted to EPA within 18 months of exceeding the trigger.
- c) Plan and schedule content. The plan and schedule must identify the actions necessary to maintain adequate capacity and to meet the limits and requirements of the permit. The permittee must consider the following topics and actions in its plan:
  - (i) Analysis of the present design and proposed process modifications
  - (ii) Reduction or elimination of excessive infiltration and inflow of uncontaminated ground and surface water into the sewer system
  - (iii) Limits on future sewer extensions or connections or additional waste loads
  - (iv) Modification or expansion of facilities
  - (v) Reduction of industrial or commercial flows or waste loads

**Table 3. Design Criteria (Maximum Average Monthly Values)**

Parameter	Units	Criteria Value
Design Flow	mgd	0.375
Influent BOD <sub>5</sub> Loading	lbs/day	600
Influent TSS Loading	lbs/day	600

**D. Emergency Response and Public Notification Plan**

1. The permittee must develop and implement an overflow emergency response and public notification plan that identifies measures to protect public health from overflows that may endanger health and unanticipated bypasses or upsets that exceed any effluent limitation in the permit. At a minimum the plan must include mechanisms to:
  - a) Ensure that the permittee is aware (to the greatest extent possible) of all overflows from portions of the collection system over which the permittee has ownership or operational control and unanticipated bypass or upset that exceed any effluent limitation in the permit;

- b) Ensure appropriate responses including assurance that reports of an overflow or of an unanticipated bypass or upset that exceed any effluent limitation in the permit are immediately dispatched to appropriate personnel for investigation and response;
  - c) Ensure immediate notification to the public, health agencies, and other affected public entities (including public water systems). The overflow response plan must identify the public health and other officials who will receive immediate notification at the Department of Health, Shellfish Program; the Lummi Department of Natural Resources, and the concurrent courtesy notification at the Ecology Bellingham Field Office.
  - d) Ensure that appropriate personnel are aware of and follow the plan and are appropriately trained; and
  - e) Provide emergency operations.
2. The permittee must submit written notice to EPA that the plan has been developed and implemented within 180 days of the effective date of this permit. Any existing emergency response and public notification plan may be modified for compliance with this section.
  3. The permittee may submit the written notification as an electronic attachment to the DMR. The file name of the electronic attachment must be as follows: YYYY\_MM\_DD\_WA0025666\_ERPNP, where YYYY\_MM\_DD is the date that the permittee submits the written notification.

#### **E. Outfall Inspection**

The permittee must conduct an outfall inspection within the permit term. The inspection report must, at a minimum:

- Describe the shape and orientation (direction of the ports) of the outfall.
- List the size (pipe and port dimensions), outfall depth, height above the seafloor of the outfall.
- Confirm the physical location (latitude and longitude) of the outfall.
- Describe the physical condition of the outfall pipe and associated parts.
- Ensure the ports are free of obstructions and allow uniform flow.
- Include photographs if conditions allow.

The permittee must submit the inspection report with the next permit application.

#### **F. Industrial Waste Management**

1. The Permittee must not authorize the introduction of pollutants that would inhibit, interfere, or otherwise be incompatible with operation of the treatment works including interference with the use or disposal of municipal sludge.
2. The Permittee must not authorize, under any circumstances, the introduction of the following pollutants to the POTW from any source of nondomestic discharge:

- a) Any pollutant which may cause Pass Through or Interference;
  - b) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 60°C (140° F) using the test methods specified in 40 CFR 261.21;
  - c) Pollutants which will cause corrosive structural damage to the POTW, but in no case indirect discharges with a pH of lower than 5.0 s.u., unless the treatment facilities are specifically designed to accommodate such indirect discharges;
  - d) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, or other interference with the operation of the POTW;
  - e) Any pollutant, including oxygen demanding pollutants (e.g., BOD<sub>5</sub>), released in an indirect discharge at a flow rate and/or pollutant concentration which will cause Interference with any treatment process at the POTW;
  - f) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40° C (104° F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits;
  - g) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through at the POTW;
  - h) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
  - i) Any trucked or hauled pollutants, except at discharge points designated by the POTW; or
  - j) Any specific pollutant which exceeds a local limitation established by the Permittee in accordance with the requirements of 40 CFR 403.5(c) and (d).
3. The Permittee must develop and maintain a master list of the industrial users introducing pollutants to the POTW. Industrial user means any source of indirect discharge from a non-domestic source. This list must identify:
- a) Names and addresses of all industrial users;
  - b) Which industrial users are significant industrial users (SIUs) (see Paragraph 5 of this Part);
  - c) Which SIUs are subject to categorical Pretreatment Standards (see 40 CFR 405-471);
  - d) Which standards are applicable to each industrial user (if any);

- e) Which industrial users are subject to local standards that are more stringent than the categorical Pretreatment Standards; and
  - f) Which industrial users are subject only to local requirements.
4. The Permittee must submit this list, along with a summary description of the sources and information gathering methods used to develop this list, to EPA within two years following the effective date of the NPDES permit. The permittee may submit the list as an electronic attachment to NetDMR. The file name of the electronic attachment must be as follows:  
YYYY\_MM\_DD\_WA0025658\_Industrial User\_12099, where YYYY\_MM\_DD is the date that the permittee submits the written notification.
5. For the purposes of this list development, the term SIU means:
- a) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and
  - b) Any other industrial user that:
    - (i) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
    - (ii) contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    - (iii) is designated as such by EPA or the Permittee on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violation any Pretreatment Standard or requirement in accordance with 40 CFR 403.8(f)(6).

### **III. Monitoring, Recording, and Reporting Requirements**

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

Samples and measurements must be representative of the volume and nature of the monitored discharge.

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 paragraph III.C (Monitoring Procedures). The permittee must report all additional monitoring in accordance with paragraph 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 10th 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. 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\_WA0025666\_Report Type Name\_Identifying Code, where YYYY\_MM\_DD is the date that the permittee submits the attachment.
4. The permittee may use NetDMR after requesting and receiving permission from US EPA Region 10. NetDMR is accessed from:  
<https://netdmr.epa.gov/netdmr/public/home.htm>

**C. Monitoring Procedures**

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

**D. Additional Monitoring by Permittee**

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the permittee must include the results of this monitoring in the calculation and reporting of the data submitted in the DMR.

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

**E. Records Contents**

Records of monitoring information must include:

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

**F. Retention of Records**

The permittee must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of DMRs, a copy of the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of EPA at any time.

**G. Twenty-four Hour Notice of Noncompliance Reporting**

1. The permittee must report the following occurrences of noncompliance by telephone to EPA at 206-553-1846, to the Lummi Department of Natural Resources (Director Merle Jefferson, at 360-410-1706), to the Department of Health Shellfish Program at 360-236-3330 (business hours) or 360-789-8962 (after hours), and to the Whatcom County Health Department at 360-778-6000 (business hours) or 360-715-2588 (after hours), along with a concurrent courtesy call to the Ecology Northwest Regional Office at 206-594-0000, within 24 hours from the time the permittee becomes aware of the following circumstances:
  - a) any noncompliance that may endanger health or the environment;
  - b) any unanticipated bypass that exceeds any effluent limitation in the permit (See Part IV.F of this permit, Bypass of Treatment Facilities);
  - c) any upset that exceeds any effluent limitation in the permit (See Part IV.G of this permit, Upset Conditions); or
  - d) any violation of a maximum daily discharge limitation for applicable pollutants identified by Table 1 in Part I.B.
  - e) any overflow prior to the treatment works over which the permittee has ownership or has operational control. An overflow is any spill, release or diversion of municipal sewage including:
    - (i) an overflow that results in a discharge to waters of the United States; and
    - (ii) an overflow of wastewater, including a wastewater backup into a building (other than a backup caused solely by a blockage or other malfunction in a privately-owned sewer or building lateral) that does not reach waters of the United States.
2. The permittee must also provide a written submission to EPA within five 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.
  - e) if the noncompliance involves an overflow, the written submission must contain:
    - (i) The location of the overflow;
    - (ii) The receiving water (if there is one);
    - (iii) An estimate of the volume of the overflow;
    - (iv) A description of the sewer system component from which the release occurred (e.g., manhole, constructed overflow pipe, crack in pipe);
    - (v) The estimated date and time when the overflow began and stopped or will be stopped;
    - (vi) The cause or suspected cause of the overflow;
    - (vii) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the overflow and a schedule of major milestones for those steps;
    - (viii) An estimate of the number of persons who came into contact with wastewater from the overflow; and
    - (ix) Steps taken or planned to mitigate the impact(s) of the overflow and a schedule of major milestones for those steps.
3. The Director of the 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.
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. The permittee must submit the legible originals of these documents to the Director, Enforcement and Compliance Assurance Division, with a copy to Ecology at the following addresses:

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

Washington Department of Ecology  
Bellingham Field Office  
913 Squalicum Way #101  
Bellingham, WA 98225

#### **H. Other Noncompliance Reporting**

The permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Part III.B of this permit, Reporting of Monitoring Results, are submitted. The reports must contain the information listed in Part III.G.2 of this permit, Twenty-four Hour Notice of Noncompliance Reporting.

#### **I. Public Notification**

The permittee must immediately notify the public health agencies (e.g. Washington State Department of Health, Shellfish Program) and other affected entities (e.g. public water systems, the Lummi Department of Natural Resources, and, out of courtesy, also the Ecology Bellingham Field Office) of any overflow which the permittee owns or has operational control; or any unanticipated bypass or upset that exceeds any effluent limitation in the permit in accordance with the notification procedures developed in accordance with Part II.D, Emergency Response and Public Notification Plan.

#### **J. Notice of New Introduction of Toxic Pollutants**

The permittee must notify the Director of the Water Division in writing of:

1. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to Sections 301 or 306 of the Act if it were directly discharging those pollutants; and
2. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
3. For the purposes of this section, adequate notice must include information on:
  - a) The quality and quantity of effluent to be introduced into the POTW, and
  - b) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
4. The permittee must notify the Director of the Water Division at the following address:

U.S. EPA Region 10  
Attn: NPDES Permitting Section Manager  
1200 Sixth Avenue, Suite 155  
WD 19-C04  
Seattle, WA 98101-3188

## **IV. Compliance Responsibilities**

### **A. Duty to Comply**

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

### **B. Penalties for Violations of Permit Conditions**

1. **Civil and Administrative Penalties.** Pursuant to 40 CFR Part 19 and the Act, any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 USC § 2461 note) as amended by the Debt Collection Improvement Act (31 USC § 3701 note) (currently \$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 Part 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 USC § 2461 note) as amended by the Debt Collection Improvement Act (31 USC § 3701 note) (currently \$22,320 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$55,800). Pursuant to 40 CFR Part 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 USC § 2461 note) as amended by the Debt Collection Improvement Act (31 USC § 3701 note) (currently \$22,320 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) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

**F. Bypass of Treatment Facilities**

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs 2 and 3 of this Part.
2. Notice.
  - a) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it must submit prior written notice, if possible, at least 10 days before the date of the bypass.
  - b) Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required under Part III.G of this permit, Twenty-four Hour Notice of Noncompliance Reporting.
3. Prohibition of bypass.
  - a) Bypass is prohibited, and the Director of the Enforcement and Compliance Assurance Division may take enforcement action against the permittee for a bypass, unless:
    - (i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have

been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

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

### **G. Upset Conditions**

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the permittee meets the requirements of Paragraph 2 of this Part. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
2. Conditions necessary for a demonstration of upset. To establish the affirmative defense of upset, the permittee must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - b) The permitted facility was at the time being properly operated;
  - c) The permittee submitted notice of the upset as required under Part III.G of this permit, Twenty-four Hour Notice of Noncompliance Reporting and
  - d) The permittee complied with any remedial measures required under Part IV.D of this permit, Duty to Mitigate.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

### **H. Toxic Pollutants**

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

### **I. Planned Changes**

The permittee must give written notice to the Director of the Water Division as specified in Part III.J.4 of this permit as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this permit.
3. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application site.

#### **J. Anticipated Noncompliance**

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

#### **K. Reopener**

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

### **V. General Provisions**

#### **A. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR 122.62, 122.64, or 124.5. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

#### **B. Duty to Reapply**

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

#### **C. Duty to Provide Information**

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

#### **E. Signatory Requirements**

All applications, reports or information submitted to EPA 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 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.
3. Changes to authorization. If an authorization under Paragraph 2 of this Part is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Paragraph 2 of this Part must be submitted to the Director of Enforcement and Compliance Assurance Division prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this Part must make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system



designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

#### **F. Availability of Reports**

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

#### **G. Inspection and Entry**

The permittee must allow the Director of the Enforcement and Compliance Assurance Division, EPA Region 10 or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

#### **H. Property Rights**

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

**I. Transfers**

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

**J. State Laws**

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

**VI. Definitions**

1. "Act" means the Clean Water Act.
2. "Administrator" means the Administrator of the EPA, or an authorized representative.
3. "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. "Average weekly discharge limitation" means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week.
5. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
6. "Composite" - see "24-hour composite".
7. "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.
8. "Director of the Office of Compliance and Enforcement" means the Director of the Office of Compliance and Enforcement, EPA Region 10, or an authorized representative.
9. "Director of the Water Division" means the Director of the Water Division, EPA Region 10, or an authorized representative.

10. "DMR" means discharge monitoring report.
11. "Ecology" means Washington State Department of Ecology.
12. "EPA" means the United States Environmental Protection Agency.
13. "Geometric Mean" means the  $n^{\text{th}}$  root of a product of  $n$  factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.
14. "Grab" sample is an individual sample collected over a period of time not exceeding 15 minutes.
15. "Inhibition concentration", IC, is a point estimate of the toxicant concentration that causes a given percent reduction ( $p$ ) in a non-quantal biological measurement (e.g., reproduction or growth) calculated from a continuous model (e.g., Interpolation Method).
16. "Maximum daily discharge limitation" means the highest allowable "daily discharge."
17. "Method Detection Limit (MDL)" means the minimum concentration of a substance (analyte) that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.
18. "Minimum Level (ML)" means the concentration at which the entire analytical system must give a recognizable signal and an acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method-specified sample weights, volumes and processing steps have been followed.
19. "National Pollutant Discharge Elimination System (NPDES)" means, the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Act.
20. "QA/QC" means quality assurance/quality control.
21. "Regional Administrator" means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.
22. "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.
23. "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.

24. "24-hour composite" sample means a combination of at least 8 discrete sample aliquots of at least 100 milliliters, collected over periodic intervals from the same location, during the operating hours of a facility over a 24-hour period. The composite must be flow proportional. The sample aliquots must be collected and stored in accordance with procedures prescribed in the most recent edition of Standard Methods for the Examination of Water and Wastewater.

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**Appendix A*****Minimum Levels***

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

<b>Pollutant &amp; CAS No. (if available)</b>	<b>Minimum Level (ML) <math>\mu\text{g/L}</math> unless specified</b>
Biochemical oxygen demand	2 mg/L
Carbonaceous biochemical oxygen demand	2 mg/L
Chlorine, total residual (7782-50-5)	50.0
Dissolved oxygen	+/- 0.2 mg/L
Mercury, total (7439-97-6)	0.0005
Nitrate + nitrite nitrogen (as N)	100
Nitrogen, total Kjeldahl (as N) (7727-37-9)	300
Oil and grease (HEM) (hexane extractable material)	5,000
pH	N/A
Phosphorus, total (as P)	10
Soluble reactive phosphorus (as P)	10
Temperature	+/- 0.2°C
Total ammonia (as N) (7664-41-7)	50
Total dissolved solids	20 mg/L
Total organic carbon	1 mg/L
Total suspended solids	5 mg/L