

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

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",

City of McCall
216 E. Park Street
McCall, Idaho 83638

is authorized to discharge from a wastewater treatment facility located in McCall, Idaho.

to receiving waters named the North Fork Payette River at the following location:

<u>Outfall</u>	<u>Latitude</u>	<u>Location</u>
001	44°53'56"	116°07'20"

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

This permit shall become effective May 1, 2003.

This permit and the authorization to discharge shall expire at midnight, April 30, 2008.

Signed this 27th day of March, 2003.

Mike Bussell for _____
Randall F. Smith
Director

Office of Water, Region 10
U.S. Environmental Protection Agency

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I. SPECIFIC LIMITATIONS AND MONITORING REQUIREMENTS

A. Effluent Limitations, Monitoring Requirements, and Emergency Discharge Limitations..

1. Irrigation Season - June 1 - September 30

The City of McCall shall use the J-Ditch to convey all wastewater effluent from the city's wastewater treatment plant to the maximum extent practicable. The discharge to the J-Ditch mixing station must meet the limitations and monitoring requirements set forth in the city's Consent Order with the IDEQ.

This permit does not authorize the discharge to surface waters of the state of any waste streams, including spills and other unintentional or non-routine discharges of pollutants, that are not part of the normal operation of the facility as disclosed in the permit application.

2. Final Limitations

The permittee is prohibited from discharging to the NFPR except as provided by Emergency Discharge Limitations. Any discharge to another surface water will require a new NPDES permit application.

3. Emergency Discharge Limitations

- a. The permittee is authorized, after first notifying and obtaining the approval of IDEQ, to discharge from the plant, storage pond, or both, to the NFPR during the period from December 1 through June 30 only when insufficient storage capacity exists or is anticipated to exist based upon flow projections.
- b. The permittee must report on it's DMR the number of days during a given month when a discharge occurs.
- c. The permittee must maintain a 60:1 dilution of river flow to effluent flow and must meet the following additional discharge conditions:

PARAMETER	EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS		
	Average Monthly Limit	Average Weekly Limit	Daily Maximum Limit	Sample Location	Sample Frequency	Sample Type
Total Effluent Flow cfs	Report	---	Report	Effluent	Continuous	Recording
Total River Flow cfs	Report	—	Report	USGS gage & Fish Hatchery	Daily while discharging	Grab
Dilution Factor Ratio of River Flow to Effluent Flow	Maintain $\geq 60:1$ dilution			Calculation	Daily while discharging	Calculation
Biochemical Oxygen Demand (BOD ₅)	20 mg/l (330 lb/day)	30 mg/l (500 lb/day)	---	Influent and Combined Effluent	Daily while discharging	24 hr. ¹ Composite/Grab
Total Suspended Solids (TSS)	20 mg/l (330 lb/day)	30 mg/l (500 lb/day)	---	Influent and Combined Effluent	Daily while discharging	24 hr. ¹ Composite/Grab
pH	6.5 - 9.0 Standard Units			Combined Effluent and NFPR (up and down)	Daily while discharging	Grab
E. coli Bacteria ²	126/100 ml	—	406/100 ml	Combined Effluent	Daily while discharging	Grab
Total Residual Chlorine ³	---	---	0.5 mg/l	Combined Effluent	Daily while discharging	Grab

¹ 24-hour flow proportioned composite sample.

² The average monthly E. coli count must be based on a minimum of five samples taken every three to five days over a 30-day period. See Part I.D. for a definition of geometric mean.

³ Chlorine should be analyzed using the test method from the most recent edition of Standard Methods, Method 4500-Cl F with an MDL of 18 µg/L.

- d. There shall be no discharge of floating solids or visible foam other than trace amounts.
- e. The discharge from the storage pond must not include any sludge from the bottom of the pond.

- f. Percent removal requirements for BOD₅ and TSS are as follows: For any month, the percent removal required for BOD₅ and TSS, as measured in the influent and the combined effluent, shall equal 85 percent as measured by concentration.

Percent removal of BOD₅ and TSS shall be reported on the Discharge Monitoring Reports (DMRs). For each parameter, the monthly average percent removal shall be calculated from the arithmetic mean of the influent values and the arithmetic mean of the effluent values for that month. Influent and effluent samples shall be taken over approximately the same time period.

B. Additional Monitoring and Reporting Requirements

During the period beginning on the effective date of this permit and lasting until the expiration date, during any discharge, the discharge and the NFPR shall be monitored as specified below:

Monitoring Requirements				
Parameter	Units	Location	Frequency	Sample Type
Total Phosphorus (P)	mg/l	Effluent NFPR ¹ (upstream)	Daily while discharging	Grab
Total Ortho Phosphate (ortho-P)	mg/l	Effluent NFPR ¹ (upstream)	Daily while discharging	Grab
Total Ammonia-Nitrogen (NH ₃ -N)	mg/l	Effluent NFPR ¹ (upstream)	Daily while discharging	Grab
¹ In the event of an emergency discharge, the NFPR shall be sampled immediately upstream of the permittee's discharge at a location agreed upon by the permittee, Idaho Department of Environmental Quality (IDEQ) and EPA and where specified immediately downstream of the agreed-upon mixing zone.				

C. Modification Clause

Consistent with 40 CFR § 122.62, this permit may be modified if necessary to incorporate changes in water quality-based limitations for nutrients or other conditions (such as procedures to permit pollutant trading between sources of pollution) that may be included in Phase II of the Watershed Management Plan (TMDL).

D. Definitions

1. "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.
2. "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.
3. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
4. "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.
5. "Director" means the Director of the Office of Water, EPA or an authorized representative.
6. "Geometric mean" of "n" quantities is the "nth" root of the product of the quantities. For example the geometric mean of 100, 200 and 300 is $(100 \times 200 \times 300)^{1/3} = 181.7$
7. A "Grab" sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.
8. An "Instantaneous Maximum Limit" means the maximum allowable concentration of a pollutant determined from the analysis of any discrete sample collected, independent of the flow rate and the duration of the sampling event
9. "Maximum daily discharge limitation" means the highest allowable "daily

discharge."

10. "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.
11. "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.

II. MONITORING, RECORDING AND 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 40 CFR Part 136, unless other test procedures have been specified in this permit.
- C. Reporting of Monitoring Results. Monitoring results shall be summarized each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or an equivalent. The reports shall be submitted monthly and are to be postmarked by the 10th day of the following month. Legible copies of these, and all other reports, shall be signed and certified in accordance with the requirements of Part IV.J., Signatory Requirements, and submitted to the Director, Office of Water and the State agency at the following addresses:

original to: United States Environmental Protection Agency (EPA) Region 10
1200 Sixth Avenue, OW-133
Seattle, Washington 98101

copy to: Idaho Department of Environmental Quality (IDEQ)
Boise Regional Office
1445 N. Orchard Street
Boise, Idaho 83706

- D. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.
- E. 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) analyses were performed;
 4. The individual(s) who performed the analyses;
 5. The analytical techniques or methods used; a,d
 6. The results of such analyses.
- F. 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 three years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time. Data collected on-site, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained on-site.
- G. Twenty-four Hour Notice of Noncompliance Reporting.
1. The following occurrences of noncompliance shall be reported by telephone, to the EPA hotline at 206-553-1846, within 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.); or
 - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit to be reported within 24 hours.
2. 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; and
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
3. 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 Water Compliance Section in Seattle, Washington.
4. Reports shall be submitted to the addresses in Part II.C., Reporting of Monitoring Results.
- H. 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 II.C. are submitted. The reports shall contain the information listed in Part II.G.2.

- I. Inspection and Entry. The Permittee shall allow the Director 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.

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.
1. Civil and Administrative Penalties. Any person who violates a permit condition implementing Sections Penalty. The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to a civil or administrative penalty, not to exceed the maximum amounts specified in Sections 309(d) and 309(g) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S. C. § 2461 note) as amended by the Debt collection Improvement Act (31 U.S.C. § 3701 note).

2. Criminal Penalties:

- a. Negligent Violations. Any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(1) of the Act.
- b. Knowing Violations. The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(2) of the Act.
- c. Knowing Endangerment. Any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 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 and/or imprisonment as specified in Section 309(c)(3) of the Act.
- d. False Statements. Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, must be punished by a fine and/or imprisonment as specified in Section 309(c)(4) of the Act.

Except as provided in permit conditions in 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 or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

- 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 screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.
- 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 the provisions of paragraphs 2 and 3 of this section.
 2. Notice:
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.
 - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.G., Twenty-four Hour Notice of Noncompliance Reporting.
 3. Prohibition of bypass.
 - a. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

- (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (3) The permittee submitted notices as required under paragraph 2 of this section.

- b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determine that it will meet the three conditions listed above in paragraph 3.a. of this section.

H. Upset Conditions.

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph 2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
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.G., 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 must comply with effluent standards or prohibitions established under Section 307(a) 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.

IV. GENERAL REQUIREMENTS

- A. Notice of New Introduction of Pollutants. The Permittee shall provide adequate notice to the Director, Office of Water of:
 1. Any new introduction of pollutants into the treatment works 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 treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit.
 3. For the purposes of this section, adequate notice shall include information on:
 - a. The quality and quantity of effluent to be introduced into such treatment works; and
 - b. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from such publicly owned treatment works.
- B. Control of Undesirable Pollutants. The permittee shall not allow introduction of the following pollutants into the publicly owned treatment works (POTW):
 1. Pollutants which will create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° F or 60° C using the test methods specified in 40 CFR 261.21;

2. Pollutants which will cause corrosive structural damage to the POTW, but in no case, discharges with a pH lower than 5.0, unless the POTW is designed to accommodate such discharges;
 3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW (including sewers) resulting in interference;
 4. Wastewater at a flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency; and
 5. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
 6. Heat in amounts which inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW exceeds 40 °C (104° F) unless the Regional Administrator, upon request of the POTW, approves alternate temperature limits;
 7. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
 8. 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; and
 9. Any trucked or hauled pollutants, except at discharge points designated by the POTW .
- C. Requirements for Industrial Users. The permittee shall require any industrial user of these treatment works to comply with any applicable requirements of 40 CFR Part 403 through 471.
- D. 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 pollutants discharged. This notification applies to pollutants which are not

subject to effluent limitations in the permit.

- E. 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.
- F. 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.
- G. Duty to Reapply. If the Permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.
- H. 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.
- I. 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.
- J. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
 - 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.J.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.J.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."
- K. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.
 - L. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any

responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of the Act.

- M. **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.
- N. **Severability.** The provisions of this permit are severable, and if any provision 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.
- O. **Transfers.** This permit may be automatically transferred to a new Permittee if:
 - 1. The current Permittee notifies the Director at least 30 days in advance of the proposed transfer date;
 - 2. The notice includes a written agreement between the existing and new Permittee 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.
- P. **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.