

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
1595 WYNKOOP STREET  
DENVER, COLORADO 80202-1129

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. § 1251 et seq; “the Act”),

**Keller Transport, Inc.**

is authorized to discharge from its facility located in the NW 1/4 of Section 33, Township 23 North, Range 19 West, latitude 47.7153° N and longitude 114.0471° W, Lake County, Montana,

to Flathead Lake,

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein. Authorization for discharge is limited to those outfalls specifically listed in the Permit.

This Permit shall become effective **to be determined upon issuance**

This Permit and the authorization to discharge shall expire at midnight, **to be determined upon issuance**

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Authorized Permitting Official

Humberto Garcia  
Acting Director  
Water Division

NPDES BP (Rev.10/2017)

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## 1 Definitions

The *7-day (weekly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the Permit. 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 the Saturday. (40 CFR Part 122.2)

The *30-day (monthly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), 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 microbiological organisms unless specified otherwise in the Permit. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. (40 CFR Part 122.2)

*Act ("the Act")* means the Clean Water Act (formerly referred to as either the Federal Water Pollution Act or the Federal Water Pollution Control Act Amendments of 1972), Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4. In this Permit the Act may be referred to as the CWA. (40 CFR Part 122.2)

*Bypass* means the intentional diversion of waste streams from any portion of a treatment facility. (40 CFR Part 122.41(m)(1)(i))

*Composite samples* shall be flow proportioned. The composite sample shall, at a minimum, contain at least four (4) samples collected over the compositing period, unless specified otherwise at 40 CFR Part 136. (40 CFR Part 122.21(g)(7)). 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 twenty-four (24) hours. Acceptable methods for the preparation of composite samples are as follows:

- (a) Constant time interval between samples, sample volume proportional to flow rate at the 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 of the first 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 collection of sample with sample collection rate proportional to flow rate.

*Daily Maximum (Daily Max.)* is the maximum measured value for a pollutant discharged during a calendar day or any 24-hour period that reasonably represents a calendar day for purposes of sampling. For pollutants with daily maximum limitations expressed in units of mass (e.g., kilograms, pounds), the daily maximum is calculated as the total mass of pollutant discharged over

the calendar day or representative 24-hour period. For pollutants with limitations expressed in other units of measurement (e.g., milligrams/liter, parts per billion), the daily maximum is calculated as the average of all measurements of the pollutant over the calendar day or representative 24-hour period. If only one measurement or sample is taken during a calendar day or representative 24-hour period, the single measured value for a pollutant will be considered the daily maximum measurement for that calendar day or representative 24-hour period. The Daily Maximum limitation is the highest allowable discharge limit over the calendar day or representative 24-hour period. (40 CFR Part 122.2, see “daily discharge” and “maximum daily discharge limitation”)

*EPA* means the United States Environmental Protection Agency, the Regional Administrator of EPA Region 8 or an authorized representative.

*E. coli* means *Escherichia coli*.

*Geometric mean* is an average or mean based on multiplication instead of addition. To calculate a geometric mean, multiply all the measured values together and then take the nth root, where n is the number of measured values.

$$\sqrt[n]{(X_1 X_2 X_3 \dots X_n)} \quad \text{or} \quad (X_1 X_2 X_3 \dots X_n)^{1/n}$$

*Grab sample*, for monitoring requirements, is defined as a sample collected over a period not exceeding 15 minutes (typically a single "dip and take" sample or an instantaneous measurement) at a location that is representative of conditions at the time the sample is collected. 40 CFR Part 403.

*Instantaneous Maximum* means the maximum allowable concentration or other measure of a pollutant determined from the analysis of any sample.

*Instantaneous Minimum* means the minimum allowable concentration or other measure of a pollutant determined from the analysis of any sample.

*New Source* means any building, structure, facility, or installation from which there is or may be a “discharge of pollutants,” the construction of which commenced:

- (a) After promulgation of standards of performance under Section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with Section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal. (40 CFR Part 122.2)

*Permit* means this NPDES permit upon finalization. (40 CFR Part 122.2)

*Permittee* means the “person” as defined by Section 502(5) of the Act authorized to discharge under the Permit.

*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. (40 CFR Part 122.41(m)(1)(i))

*Sewage Sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced waste water treatment, scum, septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during the incineration of sewage sludge. (40 CFR Part 122.2)

*Storm water* means storm water runoff, snow melt runoff, and surface runoff and drainage. (40 CFR Part 122.26(b)(13))

*Sufficiently Sensitive* – An analytical chemical-specific test method is sufficiently sensitive when:

- (a) The method minimum level (ML) is at or below the level of the effluent limit established in the Permit for the measured pollutant or pollutant parameter; or
- (b) The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter. (40 CFR Part 122.44(i)(1)(iv)(A))

*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. (40 CFR Part 122.41(n))

*Whole Effluent Toxicity (WET)* is the total toxic effect of an effluent measured directly with a toxicity test using methods approved under 40 CFR Part 136.

## 2 Description of Discharge and Monitoring Point(s)

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 NPDES Permit is a violation of the Clean Water Act and could subject the person(s) responsible for such discharge to penalties under Section 309 of the Act.

Table 1 – Description of Discharge and Monitoring Points

<b>Outfall ID</b>	<b>Latitude/Longitude (decimal degrees)</b>	<b>Receiving Water</b>	<b>Description of Outfall</b>
002	47.71558° N / 114.04720° W	Flathead Lake	Constructed conveyance outfall in Lot 15 of East Bay Subdivision
003	47.71552° N / 114.04712° W	Flathead Lake	Constructed conveyance outfall in Lot 14 of East Bay Subdivision
004	47.71526° N / 114.04711° W	Flathead Lake	Constructed conveyance outfall in Lot 13 of East Bay Subdivision
005	47.71519° N / 114.04709° W	Flathead Lake	Constructed conveyance outfall in Lot 13 of East Bay Subdivision
006	47.71493° N / 114.04705° W	Flathead Lake	Constructed conveyance outfall in Lot 12 of East Bay Subdivision

### 3 Effluent Limitations

All Outfalls: Effective immediately and lasting through the life of this Permit, the quality of effluent discharged by the facility shall, at a minimum, meet the limitations as set forth below:

Table 2 – Effluent Limitations for all Outfalls

<b>Effluent Characteristic</b>	<b>30-Day Average Effluent Limitations <u>a/</u></b>	<b>Daily Maximum Effluent Limitations <u>a/</u></b>
Total Flow, gallons per minute (gpm)	report only	report only
Benzene, µg/L	0.58	5
Toluene, µg/L	report only	report only
Ethylbenzene, µg/L	report only	report only
Xylenes, Total, µg/L	report only	report only
Benzene, toluene, ethylbenzene, and total xylenes (BTEX), µg/L	report only	report only
Total Petroleum Hydrocarbons – Gasoline Range Organics (TPH-GRO), mg/L	N/A	10
pH	Shall not be less than 6.5 nor greater than 8.5 at any time.	
Narrative Limits	The effluent shall not: a) Settle to form objectionable sludge deposits or emulsions beneath the surface of the water or upon adjoining shorelines; b) create scum, a visible oil film or globules of grease or other floating material; c) produce odors, colors or other conditions that create a nuisance or render undesirable tastes to fish or make fish inedible; d) create concentrations or combinations of materials that are toxic or harmful to human, animal or plant life; e) create conditions that produce undesirable aquatic life.	

a/ See section 1 for definition of terms.

#### 4 Self-Monitoring and Data Requirements

Self-monitoring shall be conducted effective immediately and lasting through the effective term of this Permit. Sampling and test procedures for pollutants listed in this section shall be in accordance with guidelines promulgated by the Administrator in 40 CFR Part 136, as required in 40 CFR Part 122.41(j). At a minimum, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge (see section 5.1, Representative Sampling). If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report (DMR) that no discharge occurred. See section 5.4, Reporting of Monitoring Results, for more details.

Table 3 – Monitoring and Reporting Requirements for all Outfalls

<b>Effluent Characteristic</b>	<b>Monitoring Frequency</b>	<b>Sample Type <u>a/</u></b>	<b>Data Reported on DMR <u>a/</u></b>
Total Flow, gpm <u>b/</u>	Monthly <u>c/</u>	Instantaneous	Daily Maximum 30-Day Average
Benzene, µg/L	Monthly <u>c/</u>	Grab	Daily Maximum 30-Day Average
Toluene, µg/L	Monthly <u>c/</u>	Grab	Daily Maximum 30-Day Average
Ethylbenzene, µg/L	Monthly <u>c/</u>	Grab	Daily Maximum 30-Day Average
Xylenes, Total, µg/L	Monthly <u>c/</u>	Grab	Daily Maximum 30-Day Average
BTEX, µg/L	Monthly <u>c/</u>	Calculation <u>d/</u>	Daily Maximum 30-Day Average
Total Petroleum Hydrocarbons – Gasoline Range Organics (TPH-GRO), mg/L	Monthly <u>c/</u>	Grab	Daily Maximum 30-Day Average
pH, s.u.	Monthly <u>c/</u>	Grab <u>e/</u>	Instantaneous Minimum Instantaneous Maximum

a/ See section 1 for definition of terms.

b/ Flow measurements of effluent volume shall be made in such a manner that the Permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate and the daily maximum flow (maximum volume discharged during a 24-hour period) observed during the reporting period shall be reported in the units provided in the table.

c/ After twelve months of monitoring, the Permittee may request, in writing, a reduction in monitoring frequency to quarterly. Any such request must be sent to EPA at the address in this footnote. EPA may approve or deny the request based on the monitoring results and other information available (including applicable surface water quality standards) without further public notice or major modification of the Permit.

U.S. EPA, Region 8  
(8WD-CWW)  
Attention: Wastewater Section  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

- d/ Report BTEX as the sum of benzene, toluene, ethylbenzene, and total xylenes.
- e/ pH samples must be analyzed within 15 minutes of sample collection.

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## 5 Monitoring, Record Keeping, and Reporting Requirements

### 5.1 Representative Sampling:

All samples taken in compliance with the monitoring requirements established under section 4 shall be representative. Effluent samples shall be collected from the effluent stream prior to discharge into the receiving waters. Any influent samples shall be taken of the influent stream at the first influent access point, and if feasible prior to entering any treatment unit. Any receiving water samples shall be collected in a representative location of the receiving stream. Samples and measurements shall be representative of the volume and nature of the monitored discharge, influent, receiving stream, or other monitored location. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use or disposal practice.

### 5.2 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. Sludge monitoring procedures shall be those specified in 40 CFR Part 503, or as specified in this Permit. The Permittee must select a test procedure that is Sufficiently Sensitive for all monitoring conducted in accordance with this Permit.

### 5.3 Penalties for Tampering:

The Act provides that any person who knowingly falsifies, tampers with, or 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 two years, or by 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.

### 5.4 Reporting of Monitoring Results:

With the effective date of this Permit, the Permittee must electronically report DMRs using NetDMR at the frequency and by the due dates specified below. Electronic submissions by permittees must be submitted to EPA Region 8 no later than the 28th of the month following the completed reporting period. The Permittee must sign and certify all electronic submissions in accordance with the requirements of section 7.7 of this Permit, Signatory Requirements. NetDMR is accessed from the internet at <https://netdmr.zendesk.com/home>.

Table 4 – DMR Compliance Monitoring Periods and Due Dates

<b>Compliance Monitoring Period</b>	<b>Due Date</b>
January through March	April 28
April through June	July 28
July through September	October 28
October through December	January 28

In addition, the Permittee must submit a copy of the DMR to the Confederated Salish & Kootenai Tribes (CSKT). Currently, the Permittee may submit a copy to the CSKT by one of three ways: 1. a paper copy may be mailed, 2. The email address may be added to the electronic submittal through NetDMR, or, 3. The Permittee may provide viewing rights through NetDMR.

#### 5.5 Other Reporting Requirements:

All reports shall be signed and certified in accordance with section 7.7, Signatory Requirements. Paper reports shall be submitted to EPA Region 8, Enforcement and Compliance Assurance Division, Water Enforcement Branch and the CSKT at the addresses given below:

original to:

U.S. EPA, Region 8  
(8ENF-W)  
Attention: DMR Coordinator  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

copy to:

Environmental Protection Division  
Confederated Salish & Kootenai Tribes  
301 Main St.  
Polson, MT 59860

Prior to December 21, 2025, all other reports required herein (e.g., sections 5.9 and 5.10) as well as sewer overflow event reports, may be signed and certified in accordance with the Signatory Requirements (see section 7.7), and submitted to EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch and the CSKT at the addresses given above. Effective no later than December 21, 2025, these reports shall be submitted electronically using the NPDES Electronic Reporting Tool (NeT).

#### 5.6 Additional Monitoring by the Permittee:

If the Permittee monitors any pollutant in accordance with section 5.1 more frequently than required by this Permit, using test procedures approved under 40 CFR Part 136, 40 CFR Part 503, 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.

#### 5.7 Records Contents:

Records of monitoring information shall include:

- 5.7.1 The date, exact place, and time of sampling or measurements;
- 5.7.2 The name(s) of the individual(s) who performed the sampling or measurements;
- 5.7.3 The date(s) analyses were performed;
- 5.7.4 The time(s) analyses were initiated;

- 5.7.5 The name(s) of individual(s) who performed the analyses;
- 5.7.6 References to and, when available, written procedures for the analytical techniques or methods used; and,
- 5.7.7 The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results when analysis is conducted by the Permittee.

5.8 Retention of Records:

The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original 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. Records of monitoring required by this Permit related to sludge use and disposal activities must be kept at least five years (or longer as required by 40 CFR Part 503). This period may be extended by request of EPA at any time. Data collected on site, data used to prepare the DMR, copies of DMRs, and a copy of this NPDES Permit must be maintained on site.

5.9 Twenty-Four Hour Notice of Noncompliance Reporting:

- 5.9.1 The Permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the Permittee first became aware of the circumstances. The report shall be made to EPA, Region 8, Superfund & Emergency Management Division at (303) 293-1788 and the CSKT at (435) 722-3941.
- 5.9.2 The following occurrences of noncompliance and WET test failures shall be reported by telephone to EPA Region 8's Enforcement and Compliance Assurance Division Water Enforcement Branch at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time) and the CSKT at (435) 722-3941 (8:00 a.m. - 4:30 p.m. Mountain Time) by the first workday following the day the Permittee became aware of the circumstances:
  - 5.9.2.1 Any unanticipated bypass which exceeds any effluent limitation in the Permit (See section 6.8, Bypass of Treatment Facilities.);
  - 5.9.2.2 Any upset which exceeds any effluent limitation in the Permit (See section 6.9, Upset Conditions); or,
  - 5.9.2.3 Violation of a maximum daily discharge limitation for any of the pollutants listed in the Permit to be reported within 24 hours.
  - 5.9.2.4 Acute or chronic toxicity in a WET test.
- 5.9.3 For any noncompliance notification required under sections 5.9.1 or 5.9.2, a written submission shall also be provided to EPA Region 8's Enforcement and Compliance Assurance Division Water Enforcement Branch, and to the CSKT within five days of the time that the Permittee becomes aware of the circumstances. The written submission shall contain:

- 5.9.3.1 A description of the noncompliance and its cause;
  - 5.9.3.2 The period of noncompliance, including exact dates and times;
  - 5.9.3.3 The estimated time noncompliance is expected to continue if it has not been corrected;
  - 5.9.3.4 Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and,
  - 5.9.3.5 The signed certification statement required by the Signatory Requirements (see section 7.7).
- 5.9.4 EPA may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under section 5.9.2 above, if the incident has been orally reported in accordance with the requirements of section 5.9.2.
- 5.9.5 Reports shall be submitted to the addresses in section 5.5, Other Reporting Requirements.
- 5.10 Other Noncompliance Reporting:
- Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for section 5.5 are submitted. The reports shall contain the information listed in section 5.9.3.
- 5.11 Inspection and Entry:
- The Permittee must include access by EPA or an authorized representative in any access agreement it has with property owners. This agreement shall ensure that the following conditions, as required in 40 CFR Part 122.41(i), can be met.
- The Permittee shall allow EPA, or an authorized representative (including an authorized contractor acting as a representative of EPA), upon presentation of credentials and other documents as may be required by law, to:
- 5.11.1 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;
  - 5.11.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
  - 5.11.3 Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and,
  - 5.11.4 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.

## **6 Compliance Responsibilities**

### **6.1 Duty to Comply:**

The Permittee must comply with all conditions of this Permit. Any failure to comply with the Permit may constitute a violation of the Clean Water Act and may be grounds for enforcement

action, including, but not limited to termination, revocation and reissuance, modification, or denial of a permit renewal application. The Permittee shall give EPA advanced notice of any planned changes at the permitted facility that could change any discharge from the facility, or of any activity that may result in failure to comply with permit conditions.

## 6.2 Penalties for Violations of Permit Conditions:

The Clean Water Act provides for specified civil and criminal monetary penalties for violations of its provisions. EPA is required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (as amended) to annually adjusting statutory civil penalties to reflect inflation, according to a prescribed formula. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 required these adjustments on an annual basis, beginning in 2016. EPA has adjusted its civil monetary penalties effective December 23, 2020 (85 Fed. Reg. 83818-83821), and these amounts are adjusted annually as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The civil and criminal penalties for violations of the Act are as follows:

- 6.2.1 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 Section 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$56,460 per day for each violation.
- 6.2.2 Any person who negligently violates Section 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 for not more than one 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 for not more than two years, or both.
- 6.2.3 Any person who knowingly violates Section 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 \$5,000 to \$50,000 per day of violation, or imprisonment for not more than three 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 for not more than six years, or both.
- 6.2.4 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 for 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 for 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.

- 6.2.5 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. Where an administrative enforcement action is brought for a Class I civil penalty, the assessed penalty may not exceed \$22,584 per violation, with a maximum amount not to exceed \$56,460. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed \$22,584 per day for each day during which the violation continues, with the maximum amount not to exceed \$282,293.

6.3 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.

6.4 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.

6.5 Inspection Requirements:

- 6.5.1 On at least a monthly basis when discharging, unless otherwise approved by EPA, the Permittee shall inspect its discharge locations and monitoring point locations. The inspection shall entail, at a minimum, a “walk-through” and visual observation of any process treatment units, sampling and flow monitoring equipment, outfalls, and the receiving water, and shall include a visual and olfactory inspection of each outfall and the immediate vicinity of where each outfall flows into Flathead Lake. A visual and olfactory inspection of the small pond below Outfall 002 shall also be conducted. These visual and olfactory inspections should take place as close as possible to where each outfall flows into Flathead Lake with regards to the lake level at the time of inspection. If any of the following are observed, indicate whether it appears to be localized to the location of where the outfall enters Flathead Lake or globally observed throughout the lake/shoreline:
- 6.5.1.1 Sludge deposits or emulsions beneath the surface of Flathead Lake (or small pond) or upon adjoining shorelines;
  - 6.5.1.2 Scum, a visible oil film or globules of grease or other floating materials in the lake (or small pond);
  - 6.5.1.3 Odors, colors or other conditions that may create a nuisance or render undesirable tastes to fish or make fish inedible;
  - 6.5.1.4 Obvious signs of toxicity to animal or plant life;
  - 6.5.1.5 Undesirable aquatic life (i.e., nuisance algae).

6.5.2 The Permittee shall maintain a log of the inspection required by section 6.5.1 in either paper or electronic format recording information obtained during inspection activities. At a minimum, the notebook shall include the following:

- 6.5.2.1 Date and time of the inspection;
- 6.5.2.2 Name of the inspector(s);
- 6.5.2.3 The facility's discharge status;
- 6.5.2.4 The flow rate of the discharge if occurring;
- 6.5.2.5 Presence or absence of all attributes required to be observed in section 6.5.1 including whether aspects observed present are localized to the location of where the outfall enters Flathead Lake or globally observed throughout the lake/shoreline;
- 6.5.2.6 Identification of operational problems and/or maintenance problems;
- 6.5.2.7 Recommendations, as appropriate, to remedy identified problems including, but not limited to, any attributes in section 6.5.1 observed to be present;
- 6.5.2.8 A brief description of any actions taken with regard to problems identified; and,
- 6.5.2.9 Other information, as appropriate.

6.5.3 The Permittee shall maintain the log in either paper or electronic format in accordance with proper record-keeping procedures and shall make the log available, upon request, by authorized representatives of the U.S. Environmental Protection Agency.

6.5.4 Problems identified during the inspection shall be corrected at the time of inspection, if possible. If they cannot be corrected at the time of the inspection, the inspector must identify a corrective action to remedy the problem(s), as well as a timeline for completion of the remedy. Corrective actions to remedy problem(s) shall be in line with (and addressed through) proper operation and maintenance (see section 6.6 of the Permit). All problems identified during inspections, as well as associated corrective actions and timelines, shall be documented in the inspection log.

## 6.6 Proper Operation and Maintenance:

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

6.6.1 The Permittee shall maintain a log in either paper or electronic format containing a summary record of all operation and maintenance activities at the facility. At a minimum, the log shall include the following information:

- 6.6.1.1 Date and time;

- 6.6.1.2 Name and title of person(s) making the log entry;
- 6.6.1.3 Name of the persons(s) performing the activity;
- 6.6.1.4 A brief description of the activity; and,
- 6.6.1.5 Other information, as appropriate.

6.6.2 The Permittee shall maintain the daily log in accordance with proper record-keeping procedures in section 5.8 and shall make the log available, upon request, by authorized representatives of EPA.

#### 6.7 Removed Substances:

Collected screenings, grit, solids, sludge (including sewage sludge), or other pollutants removed in the course of treatment shall be buried or disposed in a manner consistent with all applicable federal, state, tribal, or local regulations (e.g., 40 CFR Part 257, 40 CFR Part 258, 40 CFR Part 503). Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the United States.

#### 6.8 Bypass of Treatment Facilities:

6.8.1 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 sections 6.8.2 and 6.8.3.

#### 6.8.2 Notice:

6.8.2.1 Anticipated bypass: If the Permittee knows in advance of the need for a bypass, it shall submit prior notice to the addresses in section 5.5, Other Reporting Requirements, if possible at least 10 days before the date of the bypass to EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch, and the CSKT.

6.8.2.2 Unanticipated bypass: The Permittee shall submit notice of an unanticipated bypass as required under section 5.9, Twenty-four Hour Noncompliance Reporting, to EPA Region 8, Enforcement and Compliance Assurance Division, Water Enforcement Branch, and the CSKT.

#### 6.8.3 Prohibition of bypass.

6.8.3.1 Bypass is prohibited and EPA may take enforcement action against a permittee for a bypass, unless:

6.8.3.1.1 The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

6.8.3.1.2 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 judgement to prevent a bypass which occurred during normal

periods of equipment downtime or preventive maintenance; and,

6.8.3.1.3 The Permittee submitted notices as required under section 6.8.2.

6.8.3.2 EPA may approve an anticipated bypass, after considering its adverse effects, if EPA determines that it will meet the three conditions listed above in section 6.8.3.1.

## 6.9 Upset Conditions:

6.9.1 Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of section 6.9.2 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 (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).

6.9.2 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:

6.9.2.1 An upset occurred and that the Permittee can identify the cause(s) of the upset;

6.9.2.2 The permitted facility was at the time being properly operated;

6.9.2.3 The Permittee submitted notice of the upset as required under section 5.9, Twenty-four Hour Notice of Noncompliance Reporting; and,

6.9.2.4 The Permittee complied with any remedial measures required under section 6.4, Duty to Mitigate.

6.9.3 Burden of proof: In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

## 6.10 Toxic Pollutants:

The Permittee shall 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.

## 6.11 Discharge of Un-Permitted Toxic Pollutants:

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

6.11.1 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":

6.11.1.1 One hundred micrograms per liter (100 µg/L);

6.11.1.2 Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five

hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;

- 6.11.1.3 Five (5) times the maximum concentration value reported for that pollutant in the Permit application in accordance with 40 CFR § 122.21(g)(7); or,
  - 6.11.1.4 The level established by EPA in accordance with 40 CFR § 122.44(f).
- 6.11.2 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":
- 6.11.2.1 Five hundred micrograms per liter (500 µg/L);
  - 6.11.2.2 One milligram per liter (1 mg/L) for antimony;
  - 6.11.2.3 Ten (10) times the maximum concentration value reported for that pollutant in the Permit application in accordance with 40 CFR § 122.21(g)(7); or,
  - 6.11.2.4 The level established by EPA in accordance with 40 CFR § 122.44(f).

## 7 General Requirements

### 7.1 Planned Changes:

The Permittee shall give notice to EPA as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- 7.1.1 The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the Permit, nor subject to the notification requirements for the discharge of toxic pollutants in section 6.11.1;
- 7.1.2 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 plan; or,
- 7.1.3 The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a New Source.

### 7.2 Anticipated Noncompliance:

The Permittee shall give advance notice to EPA of any planned changes in the permitted facility or activity which may result in noncompliance with Permit requirements.

### 7.3 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.

#### 7.4 Duty to Reapply:

If the Permittee wishes to continue an activity regulated by this Permit after the expiration date of this Permit, the Permittee must apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this Permit, unless permission for a later date has been granted by EPA. Failure to submit a permit application before the Permit expiration date will result in immediate Permit expiration.

#### 7.5 Duty to Provide Information:

The Permittee shall furnish to EPA, within a reasonable time, any information which 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 shall also furnish to EPA, upon request, copies of records required to be kept by this Permit.

#### 7.6 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 EPA, it shall promptly submit such facts or information.

#### 7.7 Signatory Requirements:

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

7.7.1 All permit applications shall be signed by either a principal executive officer or ranking elected official.

7.7.2 All reports required by the Permit and other information requested by EPA 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:

7.7.2.1 The authorization is made in writing by a person described above and submitted to EPA; and,

7.7.2.2 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.)

7.7.3 Changes to authorization: If an authorization under section 7.7.2 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 section 7.7.2 must be submitted to EPA prior to or together with any reports, information, or applications to be signed by an authorized representative.

7.7.4 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."*

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

#### 7.9 Availability of Reports:

Except for data determined to be confidential under 40 CFR Part 2, Subpart B, all reports prepared in accordance with the terms of this Permit shall be available for public inspection. As required by the Act and 40 CFR Part 122.7, permit applications, permits and effluent data shall not be considered confidential.

#### 7.10 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, tribal or local laws or regulations.

#### 7.11 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.

#### 7.12 Transfers:

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

- 7.12.1 The current Permittee notifies EPA and the CSKT at least 30 days in advance of the proposed transfer date at the addresses in section 5.5;
- 7.12.2 The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- 7.12.3 EPA does not notify the existing Permittee and the proposed new permittee of EPA's 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 section 7.12.2.

7.13 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.

7.14 Permittees in Indian Country:

EPA is issuing this Permit pursuant to the Agency's authority to implement the Clean Water Act NPDES program in Indian country, as defined at 18 U.S.C. § 1151.

7.15 Reopener Provision:

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

- 7.15.1 **Water Quality Standards:** The water quality standards of 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.
- 7.15.2 **Wasteload Allocation:** A wasteload allocation is developed and approved by the CSKT and/or EPA for incorporation in this Permit.
- 7.15.3 **Water Quality Management Plan:** A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this Permit.
- 7.15.4 **Toxicity Limitation:** This Permit may be reopened and modified to include whole effluent toxicity limitations if whole effluent toxicity is detected in the discharge.