

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105**

**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

**NPDES PERMIT NO. GU0020346**

In compliance with the provisions of the Clean Water Act (“CWA”) (Public Law 92-500, as amended, 33 U.S.C. 1251 et seq.), the following discharger is authorized to discharge from the identified facility at the outfall location(s) specified below, in accordance with the effluent limits, monitoring requirements, and other conditions set forth in this permit:

Discharger Name	Unitek Environmental Guam
Discharger Address	P.O. Box 24607 Barrigada, Guam 96921
Facility Name	Unitek Environmental Guam Waste Transfer Facility
Facility Location Address	1026 Cabras Highway – Port of Guam Piti, Guam 96925
Facility Rating	Minor

Outfall Number	General Type of Waste Discharged	Outfall Latitude	Outfall Longitude	Receiving Water
001	Oily Water Processing and Bilge Water Processing	13° 28' 00" N	144° 40' 30" E	Philippine Sea
002	Oily Water Processing and Bilge Water Processing	13° 27' 30" N	144° 40' 00" E	Apra Harbor
003	Oily Water Processing and Bilge Water Processing	13° 27' 45" N	144° 39' 00" E	Apra Harbor
004	Oily Water Processing and Bilge Water Processing	13° 27' 52" N	144° 39' 59" E	Philippine Sea

This permit was issued on:	August 18, 2017
This permit shall become effective on:	September 1, 2017
This permit shall expire at midnight on:	August 31, 2022

In accordance with 40 CFR 122.21(d), the discharger shall submit a new application for a permit at least 180 days before the expiration date of this permit, unless permission for a date no later than the permit expiration date has been granted by the Director.

Signed this 18th day of August, 2017, for the Regional Administrator.

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/s/  
Tomás Torres, Director  
Water Division

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## **PART I: EFFLUENT LIMITS AND MONITORING REQUIREMENTS**

### ***A. Final Effluent Limits and Monitoring Requirements***

1. Final Effluent Limits – Outfalls 001, 002, 003, and 004.  
During the period beginning on the effective date of this permit and ending on the expiration date of this permit, the discharger is authorized to discharge treated oily wastewater and bilge wastewater from its mobile treatment plant in compliance with the final effluent limits and monitoring requirements specified in Table 1. Compliance with these requirements is monitored at the point immediately following the final treatment process and before mixing with the receiving water, as shown on Attachment C. If there is no discharge at this outfall during any one month period, then report “C” in the “No Discharge” box on the DMR form for that month.  
  
The discharger is authorized to discharge from Outfalls 001, 002, and 003 until the facility relocates; at that time, discharge from Outfall 001 is prohibited and discharge from Outfalls 002, 003 and 004 only is authorized as specified in Special Conditions of this permit (III.A).
2. The discharge of pollutants at any point other than the outfall numbers specifically authorized in this permit is prohibited, and constitutes a violation thereof.
3. The discharge shall be free from substances, conditions, or combinations thereof that:
  - a. cause visible floating materials, debris, oils, grease, scum, foam, or other floating matter which degrades water quality or use;
  - b. produce visible turbidity, settle to form deposits or otherwise adversely affect aquatic life;
  - c. produce objectionable color, odor or taste, directly or by a chemical or biological action;
  - d. injure or are toxic or harmful to humans, animals, plants or aquatic life; or
4. The discharge from Outfalls 001, 003, and 004 shall not cause concentrations of suspended matter at any point to increase more than ten percent (10%) from ambient at any time.
5. The discharge from Outfall 002 shall not cause concentrations of suspended matter at any point to increase more than twenty-five percent (25%) from ambient at any time.

6. The discharge shall not cause the turbidity values in the receiving water to exceed 1.0 Nephelometric Turbidity Units (NTU) over ambient conditions.
7. The discharge shall not cause the concentration of dissolved oxygen to decrease to less than seventy-five percent (75%) saturation at any time, as influenced by salinity or naturally occurring temperature variations. Where natural conditions cause lower dissolved oxygen levels, controllable water quality factors shall not cause further reductions.
8. The discharge shall not cause the salinity of the receiving water to be altered by more than +10% from ambient conditions.
9. The discharge shall not cause the temperature of the receiving water to be changed by more than 1.8°F (1.0°C) from ambient conditions.
10. The discharge shall not contain concentrations of oil or petroleum products that:
  - a. cause a visible film, or sheen, or result in visible discoloration of the surface with a corresponding oil or petroleum product odor;
  - b. cause damage to fish, invertebrates, or objectionable degradation of drinking water quality; or
  - c. form an oil deposit on the shores or bottom of the receiving body of water.
11. The discharge shall be free of toxic substances in concentrations that produce detrimental physiological, acute or chronic responses in human, plant, animal or aquatic life.
12. The discharge shall be free of toxic substances in concentrations that produce contamination in harvestable aquatic life to the extent that it causes detrimental physiological, acute or chronic responses in humans or protected wildlife, when consumed.
13. The survival of aquatic life in marine waters subjected to the discharge, or other controllable water quality factors, shall not be less than that for the same water body in areas unaffected by the waste discharge.
14. The discharge, alone or in combination with other sources, shall not cause a violation of any applicable water quality standard.
15. Samples taken in compliance with the effluent monitoring requirements specified in Part I of this permit shall be taken at the point immediately following the final treatment process and before mixing with the receiving water

**B. Table 1. Final Effluent Limits and Monitoring Requirements – Outfall Numbers 001, 002, 003, and 004.**

Parameter	Maximum Allowable Discharge Limits			Monitoring Requirements		Notes
	Average Monthly	Maximum Daily	Units	Frequency <sup>1</sup>	Sample Type	
<b>ALL OUTFALLS</b>						
Flow rate	--	--	MGD	continuous	meter	(2), (3)
pH	Within 6.5 and 8.5 at all times		S.U.	once/discharge	discrete	(3)
Turbidity	--	--	NTU	once/discharge	discrete	(2), (3), (4)
Oil and grease	10	15	mg/L	once/discharge	grab	(5)
Copper	2.4	4.8	ug/L	once/discharge	grab	(2), (5)
Zinc	43.4	90	ug/L	once/discharge	grab	(2), (5)
BTEX: Benzene Toluene Ethylbenzene Xylene	n/a	n/a		once/year	grab	(2), (5), (6)
priority pollutants	n/a	n/a		once/permit term	grab	(2), (5), (7)
Whole effluent toxicity	n/a	n/a		Once/permit	composite	(2), (7)
<b>OUTFALLS 001, 003, AND 004</b>						
TSS	n/a	20	mg/L	once/discharge	grab	(4), (5)
orthophosphate	n/a	0.05	mg/L	once/discharge	grab	(5)
<b>OUTFALL 002</b>						
TSS	n/a	40	mg/L	once/discharge	grab	(4), (5)
orthophosphate	n/a	0.10	mg/L	once/discharge	grab	(5)

1. If there is no discharge from an outfall during any one month period, report "C" in the "No Discharge" box on the Discharge Monitoring Report for that month. For monthly and annual monitoring requirements, the permittee does not have to sample the effluent if there is no discharge in that month or year, respectively. Monthly and annual monitoring requirements apply to each outfall independently.
2. No effluent limits are set at this time, but monitoring and reporting is required.
3. Flow, pH, and turbidity shall be taken as field measurements at the time of sampling.
4. Discharge prohibition also applies per Part I.A.
5. Grab samples must be collected within the first hour of discharge.
6. BTEX must be analyzed during the first discharge event of the year.
7. The priority pollutant scan and ammonia analysis must be completed once during the five-year permit term, preferably concurrent with one whole effluent toxicity test.

**C. Sampling**

1. Samples and measurements taken as required in this permit shall be representative of the volume and nature of the monitored discharge.
2. Effluent samples shall be taken after the last treatment process and prior to mixing with the receiving water, where representative samples can be obtained.
3. If the discharge is intermittent rather than continuous, then on the first day of each such intermittent discharge, the permittee shall monitor and record data for all the parameters listed in the monitoring requirements, after which the frequencies of analysis listed in the monitoring requirements shall apply for the duration of each such intermittent discharge. If there is no discharge, then monitoring is not required.

**D. General Monitoring and Reporting**

1. All monitoring shall be conducted in accordance with 40 CFR 136 test methods, unless otherwise specified in this permit. For effluent analyses required in Table 1 of this permit, the permittee shall utilize 40 CFR 136 test methods with MDLs and MLs that are lower than the effluent limits in Table 1 of this permit. If all MDLs or MLs are higher than these effluent limits or criteria concentrations, then the permittee shall utilize the test method with the lowest MDL or ML. In this context, the permittee shall ensure that the laboratory utilizes a standard calibration where the lowest standard point is equal to or less than the ML. Influent and effluent analyses for metals shall measure “total recoverable metal”, except as provided under 40 CFR 122.45(c).
2. As an attachment to the first DMR, the permittee shall submit, for all parameters with monitoring requirements specified in Table 1 of this permit:
  - a. The test method number or title and published MDL or ML,
  - b. The preparation procedure used by the laboratory,
  - c. The laboratory’s MDL for the test method computed in accordance with Appendix B of 40 CFR 136,
  - d. The standard deviation (S) from the laboratory’s MDL study,
  - e. The number of replicate analyses (n) used to compute the laboratory’s MDL, and
  - f. The laboratory’s lowest calibration standard.

As part of each DMR submittal, the permittee shall certify that there are no changes to the laboratory’s test methods, MDLs, MLs, or calibration standards. If there are any changes to the laboratory’s test methods, MDLs, MLs, or calibration standards, these changes shall be summarized in an attachment to the subsequent DMR submittal.

3. The permittee shall develop a Quality Assurance (“QA”) Manual for the field collection and laboratory analysis of samples. The purpose of the QA Manual is to assist in planning for the collection and analysis of samples and explaining data anomalies if they occur. At a minimum, the QA Manual shall include the following:
  - a. Identification of project management and a description of the roles and responsibilities of the participants; purpose of sample collection; matrix to be sampled; the analytes or compounds being measured; applicable technical, regulatory, or program-specific action criteria; personnel qualification requirements for collecting samples;
  - b. Description of sample collection procedures; equipment used; the type and number of samples to be collected including QA/Quality Control (“QC”) samples; preservatives and holding times for the samples (see 40 CFR 136.3); and chain of custody procedures;
  - c. Identification of the laboratory used to analyze the samples; provisions for any proficiency demonstration that will be required by the laboratory before or after contract award such as passing a performance evaluation sample; analytical method to be used; MDL and ML to be reported; required QC results to be reported (e.g., matrix spike recoveries, duplicate relative percent differences, blank contamination, laboratory control sample recoveries, surrogate spike recoveries, etc.) and acceptance criteria; and corrective actions to be taken in response to problems identified during QC checks; and
  - d. Discussion of how the permittee will perform data review and reporting of results to EPA and GEPA and how the permittee will resolve data quality issues and identify limits on the use of data.
4. Throughout all field collection and laboratory analyses of samples, the permittee shall use the QA/QC procedures documented in their QA Manual. If samples are tested by a contract laboratory, the permittee shall ensure that the laboratory has a QA Manual on file. A copy of the permittee’s QA Manual shall be retained on the permittee’s premises and available for review by EPA and GEPA upon request. The permittee shall review its QA Manual annually and revise it, as appropriate.
5. Samples collected during each month of the reporting period must be reported on Discharge Monitoring Report forms, as follows:
  - a. For a *maximum daily* permit limit or monitoring requirement when one or more samples are collected during the month, report either:

The *maximum value*, if the maximum value of all analytical results is greater than or equal to the ML; or  
*NODI (Q)*, if the maximum value of all analytical results is greater than or equal to the laboratory’s MDL, but less than the ML; or

*NODI (B)*, if the maximum value of all analytical results is less than the laboratory's MDL.

- b. For an *average weekly* or *average monthly* permit limit or monitoring requirement when only one sample is collected during the week or month, report either:

The *maximum value*, if the maximum value of all analytical results is greater than or equal to the ML; or

*NODI (Q)*, if the maximum value of all analytical results is greater than or equal to the laboratory's MDL, but less than the ML; or

*NODI (B)*, if the maximum value of all analytical results is less than the laboratory's MDL.

- c. For an *average weekly* or *average monthly* permit limit or monitoring requirement when more than one sample is collected during the week or month, report:

The *average value* of all analytical results where 0 (zero) is substituted for *NODI (B)* and the laboratory's MDL is substituted for *NODI (Q)*.

6. In addition to information requirements specified under 40 CFR 122.41(j)(3) (see paragraph V.A.1.j(3) of this permit), records of monitoring information shall include the laboratory which performed the analyses and any comment, case narrative, or summary of results produced by the laboratory. The records should identify and discuss QA/QC analyses performed concurrently during sample analyses and whether project and 40 CFR 136 requirements were met. The summary of results must include information on initial and continuing calibration, surrogate analyses, blanks, duplicates, laboratory control samples, matrix spike and matrix spike duplicate results, and sample condition upon receipt, holding time, and preservation.
7. The permittee shall electronically submit Discharge Monitoring Reports to EPA using NetDMR (<http://www.epa.gov/netdmr>) and, if applicable Biosolids/Sewage Sludge Reports using NeT. See <http://www.epa.gov/compliance/national-pollutant-discharge-elimination-system-npdes-electronic-reporting-tool-net-fact>, respectively.
8. DMRs shall be submitted by the 28<sup>th</sup> day of the month following the previous reporting period. For example, under quarterly submission, the three DMR forms for January, February, and March are due on April 28<sup>th</sup>. Annual and quarterly monitoring must be conducted starting in the first complete quarter or year following permit issuance. Reporting for annual monitoring is due on January 28<sup>th</sup> of the following year. A DMR must be submitted for the reporting period even if there was not any discharge. If there is no discharge from the facility during the reporting period, the permittee shall submit a DMR indicating no discharge as required.
9. The permittee shall submit an electronic or paper Discharge Monitoring Report to GEPA. Paper DMR forms shall be mailed to:



Guam EPA  
17-3304 Mariner Avenue Tiyan  
Barrigada, GU 96913-1617

## **PART II: STANDARD CONDITIONS**

The permittee shall comply with all United States Environmental Protection Agency (EPA) Region 9 Standard Conditions included in an attachment to this permit (see Attachment A).

The permittee shall also comply with all Guam EPA conditions outlined in the Clean Water Act Section 401 water quality certification letter (dated August 15, 2017) regarding this permit. These GEPA conditions are included in the next section regarding special conditions.

## **PART III: SPECIAL CONDITIONS**

### ***E. Authorization to Discharge from Outfalls***

1. Implement Best Judgment and Best Management Practices to prevent or minimize water quality degradation.
2. A Water Quality Monitoring Plan shall be submitted to Guam EPA for review and approval. Water quality monitoring and sampling shall be in accordance with the NPDES permit. However, if needed, the permit can be amended or changed by Guam EPA when discharge conditions necessitate additional monitoring.
3. Visual water monitoring for turbidity levels is not acceptable for receiving marine waters. Turbidity values at any point shall not exceed 1.0 nephelometric turbidity units (NTU) over ambient levels.
4. A Quality Assurance (QA) Manual for field collection and laboratory analysis of samples shall be submitted to Guam EPA for review and approval.
5. The permittee shall submit the developed and/or updated USEPA-approved Pollution Prevention Plan to Guam EPA.
6. The permittee is authorized to discharge from Outfalls 001, 002, and 003 until such a time that the facility moves from its current location at Outfall 001 to its new location at Outfall 004. Permittee shall notify EPA and GEPA in writing of the facility's relocation from Outfall 001 to Outfall 004 at least 60 days prior to initial discharge from Outfall 004; the permittee shall send the notification letter to EPA and GEPA at the addresses specified in paragraph D.7 of this permit. If the permittee does not receive a response regarding outfall relocation from EPA or GEPA within 30 days, concurrence with the outfall relocation is presumed and, beginning the date identified in the notification, the permittee is (1) no longer authorized to discharge from 001 and (2) becomes authorized to discharge from Outfall 004 in accordance with the requirements in this permit.
7. Water quality sampling shall be required for ambient baseline information for the proposed Outfall 004 locations prior to initial discharge. The collected water quality baseline data shall be submitted to Guam EPA with copies to EPA. In addition, the permittee shall notify Guam EPA in writing 24 hours prior to the initial discharge and operation of the proposed Outfall 004.
8. Timely decommissioning of Outfall 001 is necessary to ensure Guam Port Authority Contractors or tenant contractors cannot mistakenly or purposely connect to the decommissioned outfall system. Guam EPA shall be notified in writing once Outfall 001 is taken off-line.

9. Pipeline gate valves in the facility shall be clearly marked to indicate if the valve is open or closed to ensure that facility operators and or spill responders do not mistakenly position the valve in the wrong position.
10. A Notice of Violation/Work Stop Order will be issued if certification conditions are not adhered to or when significant or sustained water quality degradation occurs. Work or discharge shall be suspended or halted until the permittee addresses environmental problems/concerns to Guam EPA's satisfactions. Guam EPA may also levy penalties and fines (Title 10 GCA, Chapter 47, Water Pollution Control Act, Section 477111: penalties as amended by Public Law 17-87). Invalidity or enforceability of one or more provisions of this certification shall not affect any other provisions of this certification.

***F. Permit Reopener(s)***

1. In accordance with 40 CFR 122 and 124, this permit may be modified by EPA to include effluent limits, monitoring, or other conditions to implement new regulations, including EPA-approved water quality standards; or to address new information indicating the presence of effluent toxicity or the reasonable potential for the discharge to cause or contribute to exceedances of water quality standards.

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

1. In accordance with 40 CFR 122.41(l)(6)(i), (ii), and (iii), the following condition is expressly incorporated into this permit. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally<sup>1</sup> within 24 hours from the time the permittee becomes aware of the circumstances, to EPA and Guam Environmental Protection Agency (GEPA). The permittee shall notify EPA and GEPA at the following telephone numbers:

U.S. Environmental Protection Agency  
CWA Compliance Office (ENF 3-1)  
(415) 972-3577

Administrator  
Guam EPA  
(671) 475-1658

A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and if the noncompliance has not

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<sup>1</sup> Oral reporting means direct contact with an EPA and GEPA staff person. If the permittee is unsuccessful in reaching a staff person, the permittee shall provide notification by 9 a.m. on the first business day following the noncompliance.

been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

2. The following information shall be included as information which must be reported within 24 hours under this paragraph.
  - a. Any unanticipated bypass which exceeds any effluent limit in the permit (see 40 CFR 122.44(g)).
  - b. Any upset which exceeds any effluent limit in the permit.
  - c. Violation of a maximum daily discharge limit for any of the pollutants listed by the director in the permit to be reported within 24 hours (see 40 CFR 122.44(g)).
3. The Director may waive the written report on a case-by-case basis for reports required under paragraph B.2, if the oral report has been received within 24 hours.

#### ***H. Chronic Whole Effluent Toxicity (WET) Requirements***

##### **1. Monitoring Frequency**

The permittee shall conduct once per permit term chronic toxicity tests on 24-hour composite effluent samples. Once each permit term, the permittee shall split a 24-hour composite effluent sample and concurrently conduct three toxicity tests using a fish, an invertebrate, and an alga species.

The most sensitive species is the fish, invertebrate, or alga species which demonstrates the largest percent effect level at the Instream Waste Concentration (IWC), where:  $IWC \text{ percent effect level} = [(Control \text{ mean response} - IWC \text{ mean response}) \div Control \text{ mean response}] \times 100$ .

Once the most sensitive species is identified, at beginning of each permit term, then permittee may conduct toxicity testing using only the most sensitive species (i.e., only one species) through the remaining permit term.

Chronic toxicity test samples shall be collected for each point of discharge at the designated NPDES sampling station for the effluent (i.e., downstream from the last treatment process and any in-plant return flows where a representative effluent sample can be obtained). During term of the permit, a split of each sample shall be analyzed for all other monitored parameters at the minimum frequency of analysis specified by the effluent monitoring program.

##### **2. Marine and Estuarine Species and Test Methods**

Species and short-term test methods for estimating the chronic toxicity of NPDES effluents are found in the first edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995) and applicable water quality

standards; also see 40 CFR Parts 122.41(j)(4) and 122.44(d)(1)(iv) and 40 CFR Part 122.21(j)(5)(viii) for POTWs. The permittee shall conduct a static 48-hr. non-renewal toxicity test with the purple sea urchin, *Strongylocentrotus purpuratus* or *Tripneustes gratilla*, or the sand dollar, *Dendraster excentricus* (Fertilization Test Method 1008.0).

If laboratory-held cultures of the sea urchin or sand dollar, are not available for testing, then the permittee shall conduct a static 48-hr. non-renewal toxicity test with the giant kelp, *Macrocystis pyrifera* (Germination and Growth Test Method 1009.0); or a 7-day static renewal toxicity test with the mysid, *Holmesimysis costata* (Survival and Growth Test Method 1007.01) or inland silverside, *Menidia beryllina* (Larval Survival and Growth Test Method 1006.01), found in the third edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms* (EPA/821/R-02/014, 2002; Table IA, 40 CFR Part 136).

### 3. Chronic WET Permit Trigger

For this discharge, the determination of “Pass” or “Fail” from a single-effluent concentration chronic toxicity test at the IWC of 100 percent effluent is determined using the Test of Significant Toxicity (TST) approach described in *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* (EPA 833-R-10-003, 2010). For any one chronic toxicity test, the chronic WET permit trigger that must be achieved is rejection of the null hypothesis ( $H_0$ ):

IWC (100 percent effluent) mean response  $\leq 0.75 \times$  Control mean response.

A test result that rejects this null hypothesis is reported as “Pass” on the DMR form. A test result that does not reject this null hypothesis is reported as “Fail” on the DMR form. To calculate either “Pass” or “Fail”, the permittee shall follow the instructions in *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document*, Appendix A. If a test result is reported as “Fail”, then the permittee shall follow Section 6 (Accelerated Toxicity Testing and TRE/TIE Process) of this permit.

### 4. Quality Assurance

- a. Quality assurance measures, instructions, and other recommendations and requirements are found in the chronic test methods manual previously referenced. Additional requirements are specified below.
- b. This discharge is subject to a determination of “Pass” or “Fail” from a single-effluent concentration chronic toxicity test at the IWC (for statistical flowchart and procedures, see *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document*, Appendix A, Figure A-1). The chronic IWC for this discharge is 100 percent effluent.

- c. Effluent dilution water and control water should be standard synthetic dilution water, as described in the test methods manual *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (EPA/821/R-02/013, 2002). If the dilution water is different from test organism culture water, then a second control using culture water shall also be used.
  - d. If organisms are not cultured in-house, then concurrent testing with a reference toxicant shall be conducted. If organisms are cultured in-house, then monthly reference toxicant testing is sufficient. Reference toxicant tests and effluent toxicity tests shall be conducted using the same test conditions (e.g., same test duration, etc.).
  - e. All multi-concentration reference toxicant test results must be reviewed and reported according to EPA guidance on the evaluation of concentration-response relationships found in *Method Guidance and Recommendations for Whole Effluent Toxicity (WET) Testing (40 CFR 136)* (EPA 821-B-00-004, 2000).
  - f. If either the reference toxicant or effluent toxicity tests do not meet all test acceptability criteria in the test methods manual, then the permittee shall resample and retest within 14 days.
  - g. If the discharged effluent is chlorinated, then chlorine shall not be removed from the effluent sample prior to toxicity testing without written approval by the permitting authority.
  - h. pH drift during a toxicity test may contribute to artifactual toxicity when pH-dependent toxicants (e.g., ammonia, metals) are present in the effluent. To determine whether or not pH drift is contributing to artifactual toxicity, the permittee shall conduct three sets of side-by-side toxicity tests in which the pH of one treatment is controlled at the pH of the effluent while the pH of the other treatment is not controlled, as described in Section 11.3.6.1 of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (EPA/821/R-02/013, 2002). Toxicity is confirmed to be artifactual and due to pH drift when no toxicity above the chronic WET permit limit or trigger is observed in the treatments controlled at the pH of the effluent. Upon this confirmation and following written approval by the permitting authority, the permittee may use the procedures outlined in Section 11.3.6.2 of the chronic freshwater test methods manual to control effluent sample pH during the toxicity test.
5. Initial Investigation TRE Work Plan

Within 90 days of the permit effective date, the permittee shall prepare and submit to the permitting authority a copy of its Initial Investigation Toxicity Reduction Evaluation (TRE) Work Plan (1-2 pages) for review. This plan shall include steps

the permittee intends to follow if toxicity is measured above the chronic WET permit limit or trigger and should include the following, at minimum:

- a. A description of the investigation and evaluation techniques that would be used to identify potential causes and sources of toxicity, effluent variability, and treatment system efficiency.
  - b. A description of methods for maximizing in-house treatment system efficiency, good housekeeping practices, and a list of all chemicals used in operations at the facility.
  - c. If a Toxicity Identification Evaluation (TIE) is necessary, an indication of who would conduct the TIEs (i.e., an in-house expert or outside contractor).
6. Accelerated Toxicity Testing and TRE/TIE Process
- a. If the chronic WET permit limit or trigger is exceeded and the source of toxicity is known (e.g., a temporary plant upset), then the permittee shall conduct one additional toxicity test using the same species and test method. This toxicity test shall begin within 14 days of receipt of a test result exceeding the chronic WET permit limit or trigger. If the additional toxicity test does not exceed the chronic WET permit limit or trigger, then the permittee may return to the regular testing frequency.
  - b. If the chronic WET permit limit or trigger is exceeded and the source of toxicity is not known, then the permittee shall conduct three additional toxicity tests using the same species and test method, approximately every two weeks, over a 12-week period. This testing shall begin within 14 days of receipt of a test result exceeding the chronic WET permit limit or trigger. If none of the additional toxicity tests exceed the chronic WET permit limit or trigger, then the permittee may return to the regular testing frequency.
  - c. If one of the additional toxicity tests (in paragraphs 6.a or 6.b) exceeds the chronic WET permit limit or trigger, then, within 14 days of receipt of this test result, the permittee shall initiate a TRE using, according to the type of treatment facility, EPA manual *Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants* (EPA/833/B-99/002, 1999) or EPA manual *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations* (EPA/600/2-88/070, 1989). In conjunction, the permittee shall develop and implement a Detailed TRE Work Plan which shall include the following: further actions undertaken by the permittee to investigate, identify, and correct the causes of toxicity; actions the permittee will take to mitigate the effects of the discharge and prevent the recurrence of toxicity; and a schedule for these actions.
  - d. The permittee may initiate a TIE as part of a TRE to identify the causes of toxicity using the same species and test method and, as guidance, EPA manuals: *Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity*

*Characterization Procedures* (EPA/600/6-91/003, 1991); *Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/080, 1993); *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/081, 1993); and *Marine Toxicity Identification Evaluation (TIE): Phase I Guidance Document* (EPA/600/R-96-054, 1996).

7. Reporting of Chronic Toxicity Monitoring Results

- a. The permittee shall report on the DMR for the month in which the toxicity test was conducted: “Pass” or “Fail” (based on the Welch’s t-test result) and the calculated “percent mean response at IWC”, where:

$$\text{percent mean response at IWC} = ((\text{Control mean response} - \text{IWC mean response}) \div \text{Control mean response}) \times 100$$

- b. The permittee shall submit a full laboratory report for all toxicity testing as an attachment to the DMR for the month in which the toxicity test was conducted. The laboratory report shall contain: the toxicity test results; the dates of sample collection and initiation of each toxicity test; all results for effluent parameters monitored concurrently with the toxicity test(s); and progress reports on TRE/TIE investigations.
- c. The permittee shall notify the permitting authority in writing within 14 days of exceedance of the chronic WET permit limit or trigger. This notification shall describe actions the permittee has taken or will take to investigate, identify, and correct the causes of toxicity; the status of actions required by this permit; and schedule for actions not yet completed; or reason(s) that no action has been taken.

8. Permit Reopener for Chronic Toxicity

In accordance with 40 CFR Parts 122 and 124, this permit may be modified to include effluent limitations or permit conditions to address chronic toxicity in the effluent or receiving waterbody, as a result of the discharge; or to implement new, revised, or newly interpreted water quality standards applicable to chronic toxicity.

***E. Pollutant Minimization Program***

1. To maintain the discharge at or below Water Quality-Based Effluent Limits (WQBELs), the permittee shall conduct a pollutant minimization program for each pollutant with a WQBEL below the ML (or State/Territory/Tribal quantitation level), with the goal to reduce all potential sources of the pollutant in internal and indirect wastewater streams contributing to the discharge.
2. The pollutant minimization program should include:



- a. review and monitoring of pollutant sources;
  - b. influent and effluent monitoring of the pollutant;
  - c. submittal of a control strategy for reducing pollutant loadings to the treatment facility;
  - d. implementation of appropriate control measures consistent with the control strategy, as pollutant sources are discovered;
  - e. and submittal of an annual status report of activities.
3. The permitting authority may consider cost-effectiveness when establishing the requirements of a pollutant minimization program. The permitting authority should also consider additional permit conditions (e.g., whole effluent toxicity testing, fish tissue sampling, limitations and/or monitoring on internal waste streams, etc.) to ensure that WQBELs are met and excursions above water quality standards do not occur.

#### **PART IV: POLLUTION PREVENTION PLAN REQUIREMENTS**

1. In accordance with section 304(e) of the CWA and 40 CFR 122.44(k), the permittee shall develop (or update) and implement a USEPA-approved Pollution Prevention Plan (the "Plan") that includes Best Management Practices ("BMPs"). The "Plan" will describe the pollution prevention measures or BMPs that specifically apply to the mobile treatment plant. The BMPs to be included in the Plan shall be designed to prevent pollutants from entering Apra Harbor/Philippine Sea and other surface waters while maintaining, operating, transporting and/or storing the mobile treatment plant.
1. The Plan must identify the potential sources of pollution which may reasonably be expected to affect the quality of the effluent discharges from the facility; describe and ensure implementation practices which will be used to reduce the pollutants in effluent discharges from the mobile treatment plant; and assure compliance with the terms and conditions of this permit. The Plan must be updated within 30 days and implemented within 90 days of the effective date of this permit. The Plan must be made available to EPA and GEPA upon request.
2. The Plan shall include the following contents:
  - a. the identification of a pollution prevention committee (with name of each individual member) or individual(s) (by name or title) within the facility organization responsible for developing, implementing and maintaining the Plan;
  - b. a description of the facility that includes:
    - (1) a description of all activities that may be a source of pollutants;

- (2) a general location map (e.g., USGS quadrangle, or other map) with enough detail to identify the location of the facility and the receiving waters within one mile of the facility; and
  - (3) a drainage site map of the area where the mobile treatment plan is stored, maintained, or operated. The map shall outline the drainage area of each outfall and identify existing structural control measures that reduce or prevent pollutant discharge into Apra Harbor/Philippine Sea;
- c. the name of the nearest receiving water(s) that receives or may receive effluent discharges from the facility;
  - d. a summary of potential pollutant sources that includes a description of significant materials that will be treated, stored, or disposed while storing, mainlining, or operating the mobile treatment plant and a list of associate pollutant(s) or parameters (e.g., pH, BOD, etc.) for each material or activity;
  - e. a description of material loading and unloading areas;
  - f. a description of existing and planned BMPs;

The Plan shall describe the type and location of existing non-structural and structural BMPs selected to prevent pollutants from entering Apra Harbor/Philippine Sea and other surface waters during maintenance, transportation, and operation of the mobile treatment plant. The selection of BMPs should take into consideration the quantity and nature of the pollutants and their potential to impact the water quality of the receiving water. At a minimum, the non-structural and structural BMPs specified in the Plan shall ensure the following:

- (1) vehicle and equipment maintenance areas are regularly inspected and cleaned for spills and leaks (including storm inlets); have spill response equipment (e.g., drip pans, sorbent pads) to respond immediately to spills or leaks; and have proper storage of all fluids, including greases, used oil, cleaning solvents, hydraulic and transmission fluids, in accordance with local and federal laws;
- (2) vehicle and equipment washing areas have appropriate containment and/or diversionary structures or equipment to ensure wash water is discharge to the sanitary sewer or is filtered and recycled where feasible;
- (3) vehicle and equipment fueling areas are paved with concrete; and have appropriate containment and/or diversionary structures or equipment to prevent spills, fail-safe engineering devices to prevent overflows during refueling, and spill response equipment (e.g., drip pans, sorbent pads and booms) to respond immediately to spills;

- (4) other areas or equipment associated with the maintenance, operation, and storage of the mobile treatment plant are routinely cleaned up and the litter, debris, and waste oil, fuel or sludges related to its use is properly stored or disposed of in accordance with local and federal laws;
  - (5) storm drains are regularly inspected and cleaned, especially after large storms;
  - (6) mobile treatment plant is routinely inspected for leaks and spills and maintained to ensure proper operation;
  - (7) where practicable, industrial materials and activities are protected to prevent exposure to rain or runoff.
  - (8) qualified personnel must inspect all areas of the facility where industrial materials or activities are exposed to storm water and non-storm water (i.e., storage areas for vehicles/equipment awaiting maintenance, fueling areas, vehicle/equipment maintenance areas, material storage areas, line-flushing area, vehicle/equipment cleaning areas, and loading/unloading area, location(s) of oil/water separators, etc.); inspections must include an evaluation of existing BMPs; the frequency of inspections must be specified in the Plan.
- g. a description of the training program for the facility; topics should include spill response, good housekeeping and material management practices, proper fueling practices, and must identify periodic dates for such training; training must be provided to all employees that operate in areas where industrial materials or activities generate non-storm water or are exposed to storm water; employee training shall occur at least once per year.
  - h. a description of the facility's preventative maintenance program that includes timely inspections and maintenance of management devices, (e.g., cleaning oil/water separators) as well as inspecting, testing, maintaining and repairing facility equipment and systems to avoid breakdowns or failures that may result in discharges of pollutants to surface waters; all BMPs listed in the Plan must be maintained in effective operating condition.
  - i. a Spill Prevention, Control and Countermeasure Plan in accordance with 40 CFR 112; the Plan must describe the procedures that will be followed for cleaning up spills or leaks and for disposal of oil and hazardous waste; measures for cleaning up spills or leaks and disposal of such materials must be consistent with applicable RCRA regulations at 40 CFR 264 and 265 and CWA regulations at 40 CFR 112.
  - j. a copy of this permit.
3. The Plan must have management approval and be maintained and amended whenever there is a change in design, construction, operation, or maintenance of the

facility which has a significant effect on the discharge, or potential for discharge, of pollutants from the facility.

4. The Plan must be maintained and amended whenever there is indication of pollutants in the effluent discharge that may impact water quality standards; indication of pollutants requires the permittee to evaluate potential pollutant sources and corresponding BMPs and make appropriate Plan revisions; the permittee shall implement timely corrective actions and revise BMPs, as necessary.
5. The Plan must be retained on-site and be made available, upon request, for review at the time of an EPA and GEPA inspection.

## **PART V: ATTACHMENTS**

### **Attachment A: Standard Permit Conditions**

#### **A. All NPDES Permits**

1. In accordance with 40 CFR 122.41, the following conditions apply to all NPDES permits and are expressly incorporated into this permit.
  - a. Duty to comply; at 40 CFR 122.41(a).

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

Penalties for Violations of Permit Conditions: The Director will adjust the civil and administrative penalties listed below in accordance with the Civil Monetary Penalty Inflation Adjustment Rule (61 FR 252, December 31, 1996, pp. 69359-69366, as corrected in 62 FR 54, March 20, 1997, pp. 13514-13517) as mandated by the Debt Collection Improvement Act of 1996 for inflation on a periodic basis. This rule allows EPA's penalties to keep pace with inflation. The Agency is required to review its penalties at least once every 4 years thereafter and to adjust them as necessary for inflation according to a specified formula. The civil and administrative penalties following were adjusted for inflation starting in 1996.

- (1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under 405(d) of the CWA within the time provided in the regulations that established these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- (2) The CWA provides that 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 \$25,000 per day for each violation. The CWA 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 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. 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. 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 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, such as defined in section 309(c)(3)(B)(iii) of the CWA, 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.

- (3) 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 such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.
- b. Duty to reapply; at 40 CFR 122.41(b).  
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.
- c. Need to halt or reduce activity not a defense; at 40 CFR 122.41(c).  
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; at 40 CFR 122.41(d).  
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; at 40 CFR 122.41(e).  
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 backup 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. Permit actions; at 40 CFR 122.41(f).  
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. Property rights; at 40 CFR 122.41(g).  
This permit does not convey any property rights of any sort, or any exclusive privilege.
- h. Duty to provide information; at 40 CFR 122.41(h).  
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. Inspection and entry; at 40 CFR 122.41(i).  
The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon 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 purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.
- j. Monitoring and records; at 40 CFR 122.41(j).

- (1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
  - (2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), 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 3 years from the date of the sample measurement, report or application. This period may be extended by request of the Director at any time.
  - (3) Records of monitoring information shall include:
    - (i) The date, exact place, and time of sampling or measurements;
    - (ii) The individual(s) who performed the sampling or measurements;
    - (iii) The date(s) analyses were performed
    - (iv) The individuals(s) who performed the analyses;
    - (v) The analytical techniques or methods used; and
    - (vi) The results of such analyses.
  - (4) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR part 503, unless other test procedures have been specified in the permit.
  - (5) The CWA 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.
- k. Signatory requirement; at 40 CFR 122.41(k).
- (1) All applications, reports, or information submitted to the Director shall be signed and certified. (See 40 CFR 122.22.)



- (2) The CWA 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.

1. Reporting requirements; at 40 CFR 122.41(l).

- (1) Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alternations or additions to the permitted facility. Notice is required only when:
  - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
  - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).
  - (iii) 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;
- (2) 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.
- (3) Transfers. This permit is not transferable to any person except after notice to the Director. 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 CWA. (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory.)
- (4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.

- (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 503, or as specified in the permit, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.
  - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.
- (5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (6) Twenty-four hour reporting.
- (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
  - (ii) The following shall be included as information which must be reported within 24 hours under this paragraph.
    - (A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR 122.41(g).)
    - (B) Any upset which exceeds any effluent limitation in the permit.
    - (C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See 40 CFR 122.44(g).)
  - (iii) The Director may waive the written report on a case-by-case basis for reports under 40 CFR 122.41(l)(6)(ii) of this section if the oral report has been received within 24 hours.
- (7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under 40 CFR 122.41(l)(4), (5), and (6) of this

section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (1)(6) of this section.

- (8) Other information. Where 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 in any report to the Director, it shall promptly submit such facts or information.

m. Bypass; at 40 CFR 122.41(m).

(1) Definitions.

(i) “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) “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.

(2) 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 40 CFR 122.41(m)(3) and (m)(4) of this section.

(3) Notice.

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (1)(6) of this section (24-hour notice).

(4) Prohibition of bypass.

(i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) 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 preventative maintenance; and

(C) The permittee submitted notices as required under paragraph (m)(3) of this section.

(ii) The Director 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 (m)(4)(i) of this section.

n. Upset; at 40 CFR 122.41(n).

(1) Definition. "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 preventative maintenance, or careless or improper operation.

(2) 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 (n)(3) 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.

(3) 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:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;

(ii) The permitted facility was at the time being properly operated; and

(iii) The permittee submitted notice of the upset as required in paragraph (l)(6)(ii)(B) of this section (24 hour notice).

(iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

(4) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

***B. Standard Conditions Established by EPA Region 9 for All NPDES Permits***

1. Duty to reapply; at 40 CFR 122.21(d).
  - a. Any POTW with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)
  - b. All other permittees with currently effective permits shall submit a new application 180 days before the existing permit expires, except that:
    - (1) the Regional Administrator may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date.
2. Signatories to permit applications and reports; at 40 CFR 122.22
  - a. Applications. All permit applications shall be signed as follows:
    - (1) For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in 40 CFR 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under 40 CFR 122.22(a)(1)(ii) rather than to specific individuals.

- (2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or
  - (3) For a municipality, State, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- b. All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- (1) The authorization is made in writing by a person described in paragraph (a) of this section;
  - (2) 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 well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters of the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,
  - (3) The written authorization is submitted to the Director.
- c. Changes to authorization. If an authorization under paragraph (b) of this section 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 (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- d. Certification. Any person signing a document under paragraph (a) or (b) of 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.”

3. Transfer of permits; at 40 CFR 122.61.
  - a. Transfers by modification. Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under 40 CFR 122.62(b)(2)), or a minor modification made (under 40 CFR 122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.
  - b. Automatic transfers. As an alternative to transfers under paragraph (a) of this section, any NPDES 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 in paragraph (b)(2) of this section;
    - (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
    - (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. A modification under this subparagraph may also be a minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.
4. Minor modifications of permits; at 40 CFR 122.63.

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures in 40 CFR 124. Any permit modification not processed as a minor modification under this section must be made for cause and with 40 CFR 124 draft permit and public notice as required in 40 CFR 122.62. Minor modifications may only:

  - a. Correct typographical errors;
  - b. Require more frequent monitoring or reporting by the permittee.
  - c. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or
  - d. Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit

responsibility, coverage, and liability between the current and new permittees has been submitted to the Director;

- e. (1) Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under 40 CFR 122.29.
    - (1) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits
  - f. [Reserved]
  - g. Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 (or a modification thereto that has been approved in accordance with the procedures in 40 CFR 403.18) as enforceable conditions of the POTW's permits.
5. Termination of permits; at 40 CFR 122.64.
- a. The following are causes for terminating a permit during its term, or for denying a permit renewal application:
    - (1) Noncompliance by the permittee with any conditions of the permit;
    - (2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
    - (3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
    - (4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).
  - b. The Director shall follow the applicable procedures in 40 CFR 124 or 22 of this chapter, as appropriate (or State procedures equivalent to part 124) in terminating any NPDES permit under this section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the Director may terminate the permit by notice to the permittee. Termination by notice shall be effective 30 days after notice is sent, unless the permittee objects within that time. If the permittee objects during that period, the Director shall follow 40 CFR 124 or applicable State procedures for termination. Expedited permit termination procedures are not available to permittees that are subject to pending



State and/or Federal enforcement actions including citizen suits brought under State or Federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. State-authorized NPDES programs are not required to use part 22 of this chapter's procedures for NPDES permit terminations.

6. Availability of Reports; pursuant to CWA section 308  
Except for data determined to be confidential under 40 CFR 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the CWA, permit applications, permits, and effluent data shall not be considered confidential.
7. Removed Substances; pursuant to CWA section 301  
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 entering waters of the U.S.
8. Severability; pursuant to CWA section 512  
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 remainder of this permit, shall not be affected thereby.
9. Civil and Criminal Liability; pursuant to CWA section 309  
Except as provided in permit conditions on "Bypass" and "Upset", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.
10. Oil and Hazardous Substances Liability; pursuant to CWA section 311  
Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the CWA.
11. State, Tribe, or Territory Law; pursuant to CWA section 510  
Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any applicable State, Tribe, or Territory law or regulation under authorities preserved by CWA section 510.

## Attachment B: 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. “Best Management Practices” or “BMPs” are schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural, and/or managerial practices to prevent or reduce the pollution of waters of the U.S. BMPs include treatment systems, operating procedures, and practices to control: plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs may further be characterized as operational, source control, erosion and sediment control, and treatment BMPs.
4. A “composite” sample means a time-proportioned mixture of not less than eight discrete aliquots obtained at equal time intervals (e.g., 24-hour composite means a minimum of eight samples collected every three hours). The volume of each aliquot shall be directly proportional to the discharge flow rate at the time of sampling, but not less than 100 ml. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3, Table II. Where collection, preservation, and handling procedures are not outlined in 40 CFR 136.3, procedures outlined in the 18th edition of Standard Methods for the Examination of Water and Wastewater shall be used.
5. A “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.
6. A “daily maximum allowable effluent limitation” means the highest allowable “daily discharge.”
7. A “DMR” is a “Discharge Monitoring Report” that is an EPA uniform national form, including any subsequent additions, revisions, or modifications for reporting of self-monitoring results by the permittee.
8. A “grab” sample is a single sample collected at a particular time and place that represents the composition of the discharge only at that time and place. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3, Table II. Where collection, preservation, and handling procedures are not

outlined in 40 CFR 136.3, procedures outlined in the 18th edition of Standard Methods for the Examination of Water and Wastewater shall be used.

9. The “method detection limit” or “MDL” is the minimum concentration of an analyte that can be detected with 99% confidence that the analyte concentration is greater than zero, as defined by a specific laboratory method in 40 CFR 136. The procedure for determination of a laboratory MDL is in 40 CFR 136, Appendix B.
10. The “minimum level” or “ML” is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed in a specific analytical procedure, assuming that all the method-specific sample weights, volumes, and processing steps have been followed (as defined in EPA’s draft National Guidance for the Permitting, Monitoring, and Enforcement of Water Quality-Based Effluent Limitations Set Below Analytical Detection/Quantitative Levels, March 22, 1994). If a published method-specific ML is not available, then an interim ML shall be calculated. The interim ML is equal to 3.18 times the published method-specific MDL rounded to the nearest multiple of 1, 2, 5, 10, 20, 50, etc. (When neither an ML nor MDL are available under 40 CFR 136, an interim ML should be calculated by multiplying the best estimate of detection by a factor of 3.18; when a range of detection is given, the lower end value of the range of detection should be used to calculate the ML.) At this point in the calculation, a different procedure is used for metals, than non-metals:
  - a. For metals, due to laboratory calibration practices, calculated MLs may be rounded to the nearest whole number.
  - b. For non-metals, because analytical instruments are generally calibrated using the ML as the lowest calibration standard, the calculated ML is then rounded to the nearest multiple of  $(1, 2, \text{ or } 5) \times 10^n$ , where  $n$  is zero or an integer. (For example, if an MDL is  $2.5 \mu\text{g/l}$ , then the calculated ML is:  $2.5 \mu\text{g/l} \times 3.18 = 7.95 \mu\text{g/l}$ . The multiple of  $(1, 2, \text{ or } 5) \times 10^n$  nearest to 7.95 is  $1 \times 10^1 = 10 \mu\text{g/l}$ , so the calculated ML, rounded to the nearest whole number, is  $10 \mu\text{g/l}$ .)
11. A “NODI(B)” means that the concentration of the pollutant in a sample is not detected. NODI(B) is reported when a sample result is less than the laboratory’s MDL.
12. A “NODI(Q)” means that the concentration of the pollutant in a sample is detected but not quantified. NODI(Q) is reported when a sample result is greater than or equal to the laboratory’s MDL, but less than the ML.
13. A “WQBEL” is a “Water Quality-Based Effluent Limitation” that is protective of water quality standards.

### Attachment C: Location Map



Unitek NPDES# GU0020346 Outfall & Facility Location Map

### Attachment D: Wastewater Flow Schematic

