

From: tom quintal
To: [SENR Exhibits](#)
Subject: FW: SB-3 OPPOSITION TESTIMONY
Date: Monday, March 20, 2017 7:13:04 PM
Attachments: [DEQ 700 2015 PERMIT.04.06.15.pdf](#)

Beth when I sent the 700 NPDES suction dredge **attachment t** the wording below said it was for the 600 WPCF permit so I made a correction in my note below. Sorry for the confusion.

Tom Q. WVM

"Government governs best that governs least.

Thomas Jefferson.

From: tom quintal <quintalt@outlook.com>
Subject: **SB-3 OPPOSITION TESTIMONY**

Beth would you please enter this information for the record in OLS for opposition to SB-3.

The **700 NPDES SUCTION DREDGE** off stream overly restrictive permit is another reason why we should not shut more upper stream reaches for upland mining.

Thank you,

Tom Quintal

1718 Sonya Dr. SE

Salem, Oregon 97317



**GENERAL PERMIT
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTEWATER DISCHARGE PERMIT**

Department of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204
Telephone: (503) 229-5630

Issued pursuant to ORS 468B.050 and Section 402 of the Federal Clean Water Act

ISSUED TO:

Name	
Address	
Assigned Permit Number (display on dredge)	
Permit Coverage Expiration Date	

This general permit provides coverage under the National Pollutant Discharge Elimination System for three kinds of discharges:

- 1. Discharges from suction dredges not exceeding 30 horsepower and suction hoses with inside diameters no larger than six inches in diameter that do not operate in areas designated as essential salmon habitat.** Operators seeking coverage for this type of discharge must apply for registration under the permit and registration must be approved by DEQ.
- 2. Discharges from suction dredges not exceeding 16 horsepower and suction nozzles with inside diameters no larger than four inches in diameter that operate in areas designated as essential salmon habitat.** Operators seeking coverage for this type of discharge must apply for registration under the permit and registration must be approved by DEQ.
- 3. Discharges from in-water, non-motorized mining equipment or devices.** Operators seeking coverage for this type of discharge are not required to apply for registration but are required to comply with all applicable permit terms.

All other mining activities that discharge to surface waters of the state are required to apply for an individual permit, except for hand panning which is exempt from permitting requirements.

Issue date: _____

Effective date: May 15, 2015

Lydia Emer
Operations Division Administrator

SCOPE OF PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, a person covered under this permit is authorized to discharge wastewater from authorized mining equipment to waters of the state in accordance with all the requirements, limitations, and conditions set forth in the permit as follows:

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DEFINITIONS

1. *Background Turbidity* means turbidity that represents the ambient turbidity of undisturbed waters as measured or observed at least 10 feet upstream or up-current from the suction dredge or in-water non-motorized mining equipment operation at the time dredging occurs.
2. *Boulder* means a rock 12 inches in diameter or greater.
3. *Combination highbanker/suction dredge* means a type of mineral processing equipment constructed on an elevated support structure (e.g., legs or a box) with water supplied to a sluice box by hand or pumping and placer material is delivered to the hopper by hand or by an attached suction hose system.
4. *Daylight hours* means the hours between sunrise and sunset.
5. *DEQ* or *Department* means Oregon Department of Environmental Quality.
6. *Essential salmon habitat* means essential indigenous anadromous salmonid habitat pursuant to ORS 196.810(1)(f)(B).
7. *Gravel Bar* means a transitional gravel deposit that lacks any rooted vegetation, located either between the stream banks and the wetted perimeter of the stream or entirely within the wetted perimeter of the stream.
8. *Habitat structure* means physical composition of natural or restoration material that provides function and complexity in a stream. And includes but is not limited to:
 - *Boulders*
 - *Woody material* such as living or dead trees, shrubs, stumps, large tree limbs, and logs;
 - *Vegetation* such as grasses, shrubs, wildflowers, or weeds; and
 - *Other natural features* necessary to provide fish with areas for spawning, resting, food, refuge from predators and shade.
9. *Highbanker* means mineral processing equipment that is constructed on an elevated support structure (e.g., legs or a box) with water supplied to a sluice box by hand or pumping and placer material is delivered to the hopper by hand.

10. *In-water non-motorized mining equipment or device* means any equipment or device used for prospecting and small scale mining, including equipment used for gravity separation or other processing of precious metals or minerals from stream deposits within the wetted perimeter of a stream. These devices include but are not limited to a hand sluice box, mini rocker, or hand suction tool.
11. *OAR* means Oregon Administrative Rule.
12. *ORS* means Oregon Revised Statute
13. *Pollution or water pollution* means alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005(5).
14. *Stream bank* means a slope of land adjoining and confining a stream channel.
15. *Suction dredge* means a mechanical device with a suction nozzle and hose for conveyance of streambed material to a sluice box, where suction is created by a power source (electric motor or combustion engine) or gravity. The sluice box and power source of a suction dredge are mounted on a floating platform. For purposes of this permit, a suction dredge includes a gravity or siphon suction dredge.
16. *Visible Turbidity* means turbidity that is visible when compared to background turbidity.
17. *Wastes* mean sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive or other substances that will or may cause pollution or tend to cause pollution of any waters of the state. ORS 468B.005(9).
18. *Wetted perimeter* means the area of the stream that is underwater, or is exposed as a non-vegetated dry gravel bar island surrounded on all sides by water that is actively moving at the time the activity occurs.

DISCHARGES NOT AUTHORIZED BY THIS PERMIT

The coverage for discharges provided by this general permit does not extend to all waters of the State. The waters where discharges are not authorized by the general permit are set out below. Subject to applicable laws, a person wishing to mine in these areas may apply for coverage under an individual permit.

Oregon State Scenic Waterways

1. This general permit does not authorize discharges from suction dredges in Oregon State Scenic Waterways. Pursuant to ORS 390.805 to ORS 390.925 motorized suction dredge mining is restricted in Oregon State Scenic Waterways. Location information on Oregon State Scenic Waterways will be provided with the application.

Essential Salmon Habitat

2. This general permit does not authorize discharges from suction dredges greater than 16 horsepower or an inside diameter intake nozzles greater than 4 inches in Essential Salmon Habitat. Location information on Essential Salmon Habitat waterways will be provided with the application.

3. This general permit does not authorize discharges from mining outside the wetted perimeter of the stream in essential salmon habitat.

Tribal Lands

4. This general permit does not authorize discharges from suction dredges or in-water non-motorized mining equipment operating on tribal lands, or waterways that constitute a boundary of a tribal reservation. Information on water bodies that serves as tribal reservation boundaries will be provided with the application.

Water Quality Limited Streams 303(d) List

5. This general permit does not authorize discharges from suction dredges operating on any stream segment that is listed as water quality limited in categories 4 and 5 for sedimentation, turbidity or toxics other than chlorine, on the list published by DEQ pursuant to OAR 340-041-0046 unless a stream segment is subject to a total maximum daily load (TMDL) that includes a wasteload allocation for mining under the 700PM permit. The 303(d) list as approved or established by EPA that is in effect as of January 1 of each year will be used to determine if coverage is available.

Other discharges

6. This general permit does not authorize discharges from highbanker and combination highbanker/suction dredge equipment.

HOW TO REGISTER FOR COVERAGE UNDER THIS GENERAL PERMIT

A. Persons Seeking To Register Under This 700PM General Permit

1. To register for coverage under this permit, Suction dredge operators must take the following steps:
 - a. Obtain a DEQ application form by:
 - i. mail or in person from a DEQ office, or
 - ii. downloading the application from the DEQ website;
 - b. Submit a completed application to DEQ, requesting coverage under this permit at least thirty days prior to the planned activity. The Department may accept applications filed less than thirty days from the planned activity on a case by case basis;
 - c. Submit an annual fee or the optional five-year fee with the application. Except for persons paying a five-year fee for full permit term coverage, an annual fee payment form is due each year for persons seeking coverage for that calendar year. Permit registrants must submit a new application if contact information, mining location, or the operation has changed; and
 - d. Pursuant to OAR 340-045-0033(7), any person required to have coverage under a general permit must pay applicable permit fees as described in Section 3 below to obtain and maintain coverage under that permit. DEQ will not assign permit coverage without fee payment in advance.

2. DEQ will review the application and will take one of the following actions:
 - a. Issue written notice of permit registration approval;
 - b. Request additional information; or
 - c. Deny registration under this permit. The applicant will be notified if the applicant's operation cannot be approved for registration under the permit, and if the applicant may need to apply for an individual permit. The procedures for denial of an application to register and for requesting a hearing on a denial are contained in OAR 340-045-0050.
3. Fees for sources seeking registration.
 - a. To obtain and maintain coverage under this permit, the applicable fees provided in OAR 340-045-0075, Table 70G and ORS 468B.052 must be received by the Department.
 - b. Applicants may pay for permit coverage by submitting:
 - i) an annual fee for each year the person registers under the general permit; or
 - ii) a five-year fee for full permit term coverage under this general permit.
 - c. For persons with permit coverage under a five-year registration, DEQ will inform the registrant of any applicable 303(d) listings approved by EPA during the period of coverage.
 - d. Payment of a nonrefundable \$150 surcharge is required for obtaining or maintaining coverage under DEQ's 700-PM suction dredge mining permit for calendar year 2015.
4. To renew coverage prior to the January 1, 2020 expiration date.
 - a. Before July 1, 2019, registrants must:
 - i. Submit a complete application form to DEQ. The DEQ Director may grant permission to submit the application later than July 1, 2019 but no later than the permit expiration date.
 - ii. Submit all applicable fees with the permit application.

B. Sources Covered By This Permit But Not Required To Register Under The Permit

1. In-water non-motorized mining. No application or fee is required for discharges from in-water non-motorized mining equipment. Persons conducting in-water non-motorized mining must have a copy of the permit in their possession or readily available for inspection at the mining location.

COVERAGE AND ELIGIBILITY

1. A person covered by this permit may not discharge wastes to waters of the state except in compliance with this permit.

2. Suction dredge and in-water non-motorized mining equipment authorized under this permit must be located within the wetted perimeter.
3. Any person not wishing to be covered by this permit may apply for an individual permit in accordance with the procedures in OAR 340-045-0030.
4. At no time may permit coverage apply to simultaneous operation of more than one suction dredge or one in-water non-motorized mining device. The person covered by this permit may supervise another person operating either a single suction dredge or a single in-water non-motorized mining device as long as the person covered by this permit is present. A person operating under the supervision of a person covered by the permit must comply with all conditions and limitations in the permit.
5. During mining activities, a person covered by this permit must have a copy of the permit in the person's possession or readily available for inspection at the mining location. Registered suction dredge operators must possess the permit copy assigned to them through registration. Copies of this permit are available for operators using in-water non-motorized equipment at DEQ's website: <http://www.deq.state.or.us/wq> or by requesting a copy from a DEQ office.
6. An assigned permit number is provided by DEQ upon registration. DEQ's assigned permit number must be displayed at all times on a suction dredge located within the wetted perimeter. The assigned permit number identifies the operator – not the equipment – and may be transferred from one piece of equipment to another depending on which equipment the operator is using.

The assigned permit number must be displayed in a manner that is visible and legible for purposes of identification from banks and shorelines. The identification number shall read left to right and be in block characters not less than three inches in height and of a color that contrasts with the background.

SCHEDULE A

DISCHARGE LIMITATIONS FOR ALL EQUIPMENT

1. Discharges from Suction dredges and in-water non-motorized equipment authorized by this permit must not create visible turbidity above background beyond 300 feet downstream or downcurrent of the mining operation. In no case may visible turbidity cover the entire wetted perimeter (from stream bank to opposite stream bank). No wastes may be discharged and no activities may be conducted that will cause or contribute to a violation of water quality standards as adopted in OAR Chapter 340, Division 41.
2. If any visible increase in turbidity of wastewater discharges is observed above background turbidity beyond any point more than 300 feet downstream or downcurrent from the activity at any time, the operation must be modified, curtailed, or stopped immediately so that a violation as defined in Schedule A does not exist. Options to prevent, mitigate or correct turbid water discharges include, but are not limited to, ceasing operations, moving the location of the operation, reducing process flow or using a smaller machine.

3. Suction dredge and in-water non-motorized mining operations are prohibited during non-daylight hours.
4. Mining must not cause any measurable increase in turbidity in the Diamond Peak, Kalmiopsis, Eagle Cap, Gearhart Mountain, Mount Hood, Mount Jefferson, Mount Washington, Mountain Lakes, Oregon Islands, Strawberry Mountain, Three Arch Rocks and Three Sisters wilderness areas. Measureable increase in turbidity for purposes of this permit is any visible turbidity.
5. Suction dredge equipment must be properly maintained and petroleum products must be managed so that no visible oily sheen is created in the water.
6. Operation of a suction dredge is not allowed in waters less than 500 feet upstream from a stream segment of the same stream or a tributary of a stream with a stream segment that is listed as water quality limited in categories 4 and 5 for sedimentation, turbidity or toxics other than chlorine, on the list published by DEQ pursuant to OAR 340-041-0046 unless a stream segment is subject to a total maximum daily load (TMDL) that includes a wasteload allocation for mining under the 700PM permit. The 303(d) list as approved or established by EPA that is in effect as of January 1 of each year will be used for water quality limited waters.

SCHEDULE B

MONITORING REQUIREMENTS FOR SUCTION DREDGE REGISTRANTS

1. Registrants must visually monitor the turbid wastewater discharges from the suction dredge each day of the operation. Visual monitoring must be performed at least once a day during daylight hours.
2. Registrants must visually monitor the wastewater discharge immediately downstream or down current from the mining activity until the turbidity plume is no longer visible.
3. Registrants must record all of the information listed below in a monitoring log:
 - a. assigned permit number;
 - b. date of visual monitoring;
 - c. time of visual monitoring;
 - d. location of visual monitoring:
 - i) using township, range and section and latitude and longitude and
 - ii) stream name;
 - e. suction dredge nozzle inside diameter, hose inside diameter and maximum horsepower rating;
 - f. date that equipment was checked and date equipment was decontaminated for invasive species according to Schedule C, Condition 16;
 - g. account of any mercury observed in sluice box or concentrate during cleanout process and amount of mercury collected;
 - h. whether operations were modified, curtailed or stopped and if so, what actions were taken, in order to comply with the 300 foot turbidity limit;

- i. other noncompliance according to General Condition D3; and
 - j. the printed name of the person performing the visual monitoring and recording the observations in the monitoring log.
4. The monitoring log must be legible and available to authorities upon request.
 5. Registrants must submit the monitoring log as part of the DEQ annual report by February 28 of each calendar year. Permit registrants must submit an annual report even if no dredging occurred. Annual reports must be submitted to DEQ Headquarters at 811 SW 6th Avenue, Portland OR, 97204. An annual report form will be available on DEQ's web page or at a DEQ office.
 6. Registrants must maintain monitoring logs and annual reports required by this permit and records of all data used to complete the application for this permit for at least three years from the expiration date of this permit.
 7. When a registrant becomes aware that it has failed to properly report any relevant facts or has submitted incorrect information in a permit application or any report to DEQ, the registrant must promptly submit or correct the submission of such facts or information.

SCHEDULE C

BEST MANAGEMENT PRACTICES FOR SUCTION DREDGES OR NON-MOTORIZED EQUIPMENT

1. Suction dredges or in-water non-motorized mining equipment must be operated to ensure that there is no overlap of turbidity plumes from equipment used in the same waters.
2. Suction dredging is not allowed outside the periods set in the in-water work schedule (*Timing of In-Water Work To Protect Fish and Wildlife Resources*) established by the Oregon Department of Fish and Wildlife.
3. Mining equipment, including suction dredges and in-water non-motorized mining equipment must not be used where fish eggs are present.
4. No activities authorized by this permit, including operation of mining equipment, location of mining equipment, or turbid discharge, may obstruct a migrating fish from advancing upstream or downstream.
5. Mining equipment, including suction dredges and in-water non-motorized mining equipment must not be used where live freshwater mussels are present. Operations must be relocated if live mussels are encountered during excavation.
6. Mining equipment, including suction dredges and in-water non-motorized mining equipment must not be used where Pacific Lamprey ammocoetes are present. If Pacific Lamprey ammocoetes are found, the operator must salvage the ammocoetes by sifting through

streambed material in the area of operation and in the removed substrate and returning salvaged ammocoetes to the stream away from the activity.

7. Dredging or mining material from stream banks is prohibited under this permit.
8. Undercutting or eroding stream banks and removal or disturbance of boulders, rooted vegetation, or embedded woody plants and other habitat structure from stream banks is prohibited.
9. Moving boulders, logs, or other habitat structure within the stream channel is allowed by hand or non-motorized equipment. However, in no case may this habitat structure be removed entirely from the stream. Boulders and other habitat structures must be returned to their original position upon completion of the mining activity. The mining activity is considered complete if a person authorized by this permit does not return to that location to conduct the activity within 24 hours.
10. Removal of habitat structure that extends into the stream channel from the stream bank is also prohibited. Examples of habitat structure are boulders, woody materials, vegetation, and other natural features.
11. This permit does not authorize operations that may affect bridge footings, dams, and other structures in or near the stream.
12. Suction dredge equipment must be maintained, and petroleum products managed, to prevent water pollution as follows:
 - a. Discharging oil, grease and fuel from suction dredge activity is prohibited. Permit registrants must report spills according to requirements of Schedule D, Section D.2.
 - b. Equipment used for suction dredging must not release petroleum products. Equipment surfaces must be free of oils and grease, and must be checked for fuel and oil leaks prior to start of operation on a daily basis.
 - c. Oil absorbent material and an American National Standards Institute (ANSI) or Underwriters Laboratories (UL) approved safety container and self-closing nozzle must be used when refueling to prevent possible contamination of surface waters or groundwater.
 - d. Fuel and oil storage must be located at least 25 feet back from the wetted perimeter of the stream. Where a 25 foot setback is not possible (due to circumstances such as steep bank, storage security, movement of operations), fuel and oil must be stored in secondary containment. When it is not practical to store fuel and oil on land, secondary containment must be used when storing fuel on the dredge or in a support boat. Secondary containment capacity must be able to hold an amount greater than the fuel container volume.

- e. In the event a spill occurs, suction dredge operators must contain, remove and mitigate such spills immediately. All waste oil or other clean up materials contaminated with petroleum products must be properly disposed off-site.
13. No visible turbidity plume may reach the intake of a drinking water source. Drinking water source information tools to identify downstream intake locations are provided by the DEQ Drinking Water Protection Program and the Oregon Department of Water Resources.
14. Except as restricted in essential salmon habitat, suction dredging and in-water non-motorized mining is allowed on non-vegetated gravel bars up to 10 feet outside the wetted perimeter of the stream.
15. Motorized wheeled or tracked equipment is prohibited below the ordinary high water mark except for the suction dredge and life support system (for example, breathing air supply). Dredges may be launched and taken out at boat ramps, stream crossings/fords and other public water access points that are authorized by land management authorities.
16. Mining equipment must not carry or contain invasive species. Equipment must be decontaminated prior to its placement in Oregon waters and when transferring from one water body to another. The Oregon Marine Board provides information including decontamination steps on aquatic invasive species. Discharge of decontamination solutions to waters of the state is prohibited.
17. Use of chemical agents such as mercury to improve mineral processing or metal extraction from ore or high-grade fines is not allowed under this permit.

SCHEDULE D
NPDES GENERAL CONDITIONS – INDUSTRIAL FACILITIES

Where the above permit requirements are in conflict with these general conditions, the permit requirements supersede these general conditions.

SECTION A. STANDARD CONDITIONS

A1. Duty to Comply with Permit

The permittee must comply with all conditions of this permit. Failure to comply with any permit condition is a violation of Oregon Revised Statutes (ORS) 468B.025 and the federal Clean Water Act and is grounds for an enforcement action. Failure to comply is also grounds for DEQ to terminate, modify and reissue, revoke, or deny renewal of a permit.

A2. Penalties for Water Pollution and Permit Condition Violations

The permit is enforceable by DEQ or EPA, and in some circumstances also by third-parties under the citizen suit provisions 33 USC § 1365. DEQ enforcement is generally based on provisions of state statutes and Environmental Quality Commission (EQC) rules, and EPA enforcement is generally based on provisions of federal statutes and EPA regulations.

ORS 468.140 allows DEQ to impose civil penalties up to \$10,000 per day for violation of a term, condition, or requirement of a permit. The federal Clean Water Act provides for civil penalties not to

exceed \$32,500 and administrative penalties not to exceed \$11,000 per day for each violation of any condition or limitation of this permit.

Under ORS 468.943, unlawful water pollution, if committed by a person with criminal negligence, is punishable by a fine of up to \$25,000, imprisonment for not more than one year, or both. Each day on which a violation occurs or continues is a separately punishable offense. The federal Clean Water Act provides for criminal penalties of not more than \$50,000 per day of violation, or imprisonment of not more than 2 years, or both for second or subsequent negligent violations of this permit.

Under ORS 468.946, a person who knowingly discharges, places, or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape into the waters of the state is subject to a Class B felony punishable by a fine not to exceed \$250,000 and up to 10 years in prison per ORS chapter 161. The federal Clean Water Act provides for criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment of not more than 3 years, or both for knowing violations of the permit. In the case of a second or subsequent conviction for knowing violation, a person is subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.

A3. Duty to Mitigate

The permittee must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment. In addition, upon request of DEQ, the permittee must correct any adverse impact on the environment or human health resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

A4. 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 have the permit renewed. The application must be submitted at least 180 days before the expiration date of this permit.

DEQ may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date.

A5. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any term, condition, or requirement of this permit, a rule, or a statute.
- b. Obtaining this permit by misrepresentation or failure to disclose fully all material facts.
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- d. The permittee is identified as a Designated Management Agency or allocated a wasteload under a total maximum daily load (TMDL).
- e. New information or regulations.
- f. Modification of compliance schedules.
- g. Requirements of permit reopener conditions.
- h. Correction of technical mistakes made in determining permit conditions.
- i. Determination that the permitted activity endangers human health or the environment.
- j. Other causes as specified in 40 CFR §§ 122.62, 122.64, and 124.5.

The filing of a request by the permittee for a permit modification, revocation or reissuance, termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

A6. Toxic Pollutants

The permittee must comply with any applicable effluent standards or prohibitions established under Oregon Administrative Rules (OAR) 340-041-0033 and 307(a) of the federal Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the federal Clean Water Act 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.

A7. Property Rights and Other Legal Requirements

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, or authorize any injury to persons or property or invasion of any other private rights, or any infringement of federal, tribal, state, or local laws or regulations.

A8. Permit References

Except for effluent standards or prohibitions established under section 307(a) of the federal Clean Water Act and OAR 340-041-0033 for toxic pollutants, and standards for sewage sludge use or disposal established under section 405(d) of the federal Clean Water Act, all rules and statutes referred to in this permit are those in effect on the date this permit is issued.

A9. Permit Fees

The permittee must pay the fees required by OAR.

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

B1. Proper Operation and Maintenance

The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that 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 that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

SECTION C. MONITORING AND RECORDS

C1. Representative Sampling

Sampling and measurements taken as required herein must be representative of the volume and nature of the monitored discharge. All samples must be taken at the monitoring points specified in this permit, and must be taken, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points must not be changed without notification to and the approval of DEQ.

C2. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR part 136 or, in the case of sludge use and disposal, approved under 40 CFR part 503 unless other test procedures have been specified in this permit.

C3. Penalties of Tampering

The federal Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit

may, upon conviction, be punished by a fine of not more than \$10,000 per violation, imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person, punishment is a fine not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

C4. Additional Monitoring by the Permittee

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

C5. Averaging of Measurements

Calculations for all limitations that require averaging of measurements must utilize an arithmetic mean, except for bacteria which must be averaged as specified in this permit.

C6. Retention of Records

Records of monitoring reports required by this permit and records of all data used to complete the application for this permit must be retained 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 DEQ at any time.

C7. Records Contents

Records of monitoring information must include:

- a. The date, exact place, time, and methods of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

C8. Inspection and Entry

The permittee must allow DEQ or EPA upon the presentation of credentials to:

- a. 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;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

C9. Confidentiality of Information

Any information relating to this permit that is submitted to or obtained by DEQ is available to the public unless classified as confidential by the Director of DEQ under ORS 468.095. The permittee may request that information be classified as confidential if it is a trade secret as defined by that statute. The name and address of the permittee, permit applications, permits, effluent data, and information required by NPDES application forms under 40 CFR § 122.21 are not classified as confidential [40 CFR § 122.7(b)].

SECTION D. REPORTING REQUIREMENTS

D1. Transfers

This permit may be transferred to a new permittee provided the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and EQC rules. No permit may be transferred to a third party without prior written approval from DEQ. DEQ 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 40 CFR § 122.61. The permittee must notify DEQ when a transfer of property interest takes place.

D2. Twenty-Four Hour Reporting

The permittee must report any noncompliance that may endanger health or the environment. Any information must be provided orally (by telephone) within 24 hours from the time the permittee becomes aware of the circumstances, unless a shorter time is specified in the permit. During normal business hours, the DEQ regional office must be called. Outside of normal business hours, DEQ must be contacted at 1-800-452-0311 (Oregon Emergency Response System).

A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain:

- a. A description of noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times;
- c. The estimated time noncompliance is expected to continue if it has not been corrected;
- d. Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and

DEQ may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

D3. Other Noncompliance

The permittee must report all instances of noncompliance not reported under General Condition D2, at the time monitoring reports are submitted. The reports must contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times;
- c. The estimated time noncompliance is expected to continue if it has not been corrected; and
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

D4. Duty to Provide Information

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

Other Information: When the permittee becomes aware that it has failed to submit any relevant facts or has submitted incorrect information in a permit application or any report to DEQ, it must promptly submit such facts or information.

D5. Signatory Requirements

All applications, reports or information submitted to DEQ must be signed and certified in accordance with 40 CFR § 122.22.

D6. Falsification of Information

Under ORS 468.953, 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, is subject to a Class C felony punishable by a fine not to exceed \$125,000 per violation and up to 5 years in prison per ORS chapter 161. Additionally, according to 40 CFR § 122.41(k)(2), 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 will, upon conviction, be punished by a federal civil penalty not to exceed \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.