

APPENDIX D
2009 Casselman Mine NPDES Permit

STATE DISCHARGE PERMIT NUMBER	09-DP-3667	NPDES PERMIT NUMBER	MD0070629
EFFECTIVE DATE	September 30, 2010	EXPIRATION DATE	September 29, 2015
MODIFICATION DATE:		REAPPLICATION DATE	September 29, 2014

Pursuant to the provisions of Title 9 of the Environment Article, Annotated Code of Maryland, and regulations promulgated thereunder, and the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq. and implementing regulations 40 CFR Parts 122, 123, 124, and 125, the Department of the Environment, hereinafter referred to as the "Department," hereby authorizes

Maryland Energy Resources, LLC
6015 Ferguson Road
Indiana, Pennsylvania 15701

TO DISCHARGE FROM

an underground coal mine and associated facilities

LOCATED AT

Durst Road (southwest of Grantsville), Garrett County, Maryland

VIA OUTFALLS

001, 002 and 003 as identified and described herein and from facility areas identified in the storm water pollution prevention plan referenced herein

TO

the North Branch Casselman River, which is protected for (Use I) water contact recreation, fishing, aquatic life, and wildlife in accordance with the following special and general conditions and map made part hereof.

I. SPECIAL CONDITIONS

A.1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the effective period of this permit, the permittee is authorized to discharge underground coal mine drainage and storm water runoff via Outfall 001 (Maryland Coordinates 179 E and 673 N).

As specified below, such discharge shall be limited and monitored by the permittee at the discharge from the location approved by the Department as specified in Special Condition P.

PARAMETER	QUANTITY OR LOADING			QUALITY OR CONCENTRATION				FREQUENCY OF ANALYSIS	SAMPLE TYPE	NOTES
	MONTHLY AVERAGE	DAILY MAXIMUM	UNITS	MINIMUM	MONTHLY AVERAGE	DAILY MAXIMUM	UNITS			
Flow	Report	0.144	mgd					Continuous	Measured/Recorded	(4)
Total Suspended Solids (TSS)					30	45	mg/l	2/Week	24-hr. Composite	
Total Iron					3.0	6.0	mg/l	2/Week	24-hr. Composite	(5)
Total Manganese					2.0	4.0	mg/l	2/Week	24-hr. Composite	
Total Cadmium						Report	mg/l	1/Month	24-hr. Composite	(3)
Total Copper						Report	mg/l	1/Month	24-hr. Composite	(3)
Total Lead						Report	mg/l	1/Month	24-hr. Composite	(3)

I. SPECIAL CONDITIONS

A.1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – (Continued from previous page)

PARAMETER	QUANTITY OR LOADING			QUALITY OR CONCENTRATION				FREQUENCY OF ANALYSIS	SAMPLE TYPE	NOTES
	MONTHLY AVERAGE	DAILY MAXIMUM	UNITS	MINIMUM	MONTHLY AVERAGE	DAILY MAXIMUM	UNITS			
Total Mercury						Report	mg/l	1/Month	24-hr. Composite	(3)
Total Nickel						Report	mg/l	1/Month	24-hr. Composite	(3)
Total Selenium						Report	mg/l	1/Month	24-hr. Composite	(3)
Total Silver						Report	mg/l	1/Month	24-hr. Composite	(3)
Total Zinc						Report	mg/l	1/Month	24-hr. Composite	(3)
Dissolved Cadmium						Report	mg/l	1/Month	24-hr. Composite	(3)
Dissolved Copper						Report	mg/l	1/Month	24-hr. Composite	(3)
Dissolved Lead						Report	mg/l	1/Month	24-hr. Composite	(3)

I. SPECIAL CONDITIONS

A.1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – (Continued from previous page)

PARAMETER	QUANTITY OR LOADING			QUALITY OR CONCENTRATION				FREQUENCY OF ANALYSIS	SAMPLE TYPE	NOTES
	MONTHLY AVERAGE	DAILY MAXIMUM	UNITS	MINIMUM	MONTHLY AVERAGE	DAILY MAXIMUM	UNITS			
Dissolved Mercury						Report	mg/l	1/Month	24-hr. Composite	(3)
Dissolved Nickel						Report	mg/l	1/Month	24-hr. Composite	(3)
Dissolved Selenium						Report	mg/l	1/Month	24-hr. Composite	(3)
Dissolved Silver						Report	mg/l	1/Month	24-hr. Composite	(3)
Dissolved Zinc						Report	mg/l	1/Month	24-hr. Composite	(3)
Temperature Difference					0	Report	°F	1/Hour	i-s	(6)
Total Hardness						Report	mg/l	1/Month	24-hr. Composite	
Specific Conductivity						Report	S/cm	1/Week	24-hr. Composite	(8)
Total Dissolved Solids						Report	mg/l	1/Week	24-hr. Composite	(8)

I. SPECIAL CONDITIONSA.1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – (Continued from previous page)

PARAMETER	QUANTITY OR LOADING			QUALITY OR CONCENTRATION				FREQUENCY OF ANALYSIS	SAMPLE TYPE	NOTES
	MONTHLY AVERAGE	DAILY MAXIMUM	UNITS	MINIMUM	MONTHLY AVERAGE	DAILY MAXIMUM	UNITS			
Sulfates						Report	mg/l	1/Week	24-hr. Composite	(8)
Chlorides						Report	mg/l	1/Quarter	24-hr. Composite	(9)
Bicarbonate						Report	mg/l	1/Quarter	24-hr. Composite	(9)
Magnesium						Report	mg/l	1/Quarter	24-hr. Composite	(9)
Calcium						Report	mg/l	1/Quarter	24-hr. Composite	(9)
Potassium						Report	mg/l	1/Quarter	24-hr. Composite	(9)
Sodium						Report	mg/l	1/Quarter	24-hr. Composite	(9)
Acute Toxicity						<1.0	TUa	1/Quarter	24-hr. Composite	(7)
pH				6.5		8.5		Continuously	Recorded	(10)

There shall be no discharge of floating solids or persistent foam in other than trace amounts. Persistent foam is foam that does not dissipate within one half-hour of point of discharge.

I. SPECIAL CONDITIONS

A.1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – (Continued from previous page)

- (1) (blank)
- (2) (blank)
- (3) Except for mercury, EPA Test Method 200.8 shall be used. An alternate test method may be substituted as long as the Department concurs that its detection level is less than the applicable Toxic Substance Criteria in COMAR 26.08.02.03 or the permittee demonstrates to the Department that a lower detection level is not practically achievable for this wastewater. Sample preservation procedures, container materials, and maximum allowable holding times must be specified in any application to the Department for use of an alternate test method(s). Written approval from the Department must be given before any alternate test method(s) is used. Monitoring for mercury shall be performed using analytical method 1631E
- (4) In addition to the daily maximum limitation, the discharge shall not exceed 1.1 cubic feet per second at any time. The discharge permit authorization is based on a design flow of 500,000 gallons per day. However, the permit includes an interim flow limitation for at least two years until the completion of the study required by Special Condition S.
- (5) The iron limitation may be decreased to 1.0 monthly average and 2.5 daily maximum based on flow increases authorized as the result of a demonstration approved by the Department in accordance with Special Condition S.
- (6) Monitoring for temperature is required only from May 15th through September 30th. The discharge shall not cause the temperature of the receiving waters, beyond a mixing zone, to exceed 68°F or to exceed the ambient stream temperature, whichever is higher. A mixing zone extending no greater than 50 feet radially from the point of discharge is allowed. The mixing zone may not form a thermal barrier to aquatic life.

"Temperature Difference" is a calculated value, arrived at by subtracting the ambient receiving water temperature or 68°F, whichever is higher, from the effluent temperature or the temperature of the receiving water at the edge of a mixing zone, whichever is lower.

If the temperature of the effluent is equal to or less than 68°F, the only temperature measurement necessary to calculate the "temperature difference" shall be one measured at the point of discharge to State waters or at a representative internal monitoring point.

A positive "temperature difference" shall be entered as ">0" and shall be reported as a noncompliance.

The permittee shall maintain a record of all temperature measurements and their location, to be submitted as an addendum to each discharge monitoring report.

The permittee shall cease the discharge of wastewater in the event that monitoring indicates a noncompliant effluent temperature.

I. SPECIAL CONDITIONS

A.1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – (Continued from previous page)

- (7) TU_a is defined as 100 divided by the LC₅₀ value resulting from 48 hours of a valid acute toxicity test. Compliance with the LC₅₀ requirement shall be determined through testing performed in accordance with Special Condition K.

The permittee shall immediately notify the Department of a toxicity test result above 6.85 TU_a and shall immediately reduce the daily discharge volume of wastewater to a level that maintains a ratio of stream flow (measured at USGS Station No. 03078000, Casselman River gage at Grantsville, MD) to effluent flow that does not exceed the number of toxic units in the most recent WET test.

- (8) The Department shall re-open the permit to establish conductivity, sulfate, and/or total dissolved solids limitation(s) upon development of applicable State water quality standards or other information that demonstrates that impacts are occurring in the receiving stream due to levels present in the effluent.
- (9) Monitoring for these parameters shall begin one year after the beginning of mining operations.
- (10) The permittee shall cease the discharge of wastewater in the event that continuous pH monitoring indicates a noncompliant effluent pH. The permittee shall install and maintain equipment to ensure that discharge termination occurs automatically and does not require operator intervention.

I. SPECIAL CONDITIONS

A.2. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the effective period of this permit, the permittee is authorized to discharge storm water runoff from the coal mine associated areas via Outfalls 002 and 003 (Maryland Coordinates 179 E and 673 N).

As specified below, such discharge shall be limited and monitored by the permittee from the location approved by the Department as specified in Special Condition P

PARAMETER	QUANTITY OR LOADING			QUALITY OR CONCENTRATION				FREQUENCY OF ANALYSIS	SAMPLE TYPE	NOTES
	MONTHLY AVERAGE	DAILY MAXIMUM	UNITS	MINIMUM	MONTHLY AVERAGE	DAILY MAXIMUM	UNITS			
Flow	Report	Report	gpd					1/Month	Measured	
Total Suspended Solids					30	45	mg/l	1/Month	Grab	(1)
Total Iron					3.0	6.0	mg/l	1/Month	Grab	(1)
Total Manganese					2.0	4.0	mg/l	1/Month	Grab	(1)
Settleable Solids						0.5	ml/l	1/Month	Grab	(2)
Temperature						0	°F	1/Hour	i-s	(3)
pH				6.5		8.5		1/Week	Grab	

There shall be no discharge of floating solids or persistent foam in other than trace amounts. Persistent foam is foam that does not dissipate within one half-hour of point of discharge.

There shall be no discharge of mine drainage wastewater from these outfalls.

(1) This limitation does not apply during any period of discernable precipitation.

I. SPECIAL CONDITIONS

A.2. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – (Continued from previous page)

- (2) This limitation does not apply during dry weather or a precipitation event equivalent to 4.3 inches of rainfall or greater in a 24-hour period and for 4 hours thereafter. During a storm of this magnitude, the permittee need only meet the above pH limitations. Sample shall be collected during or immediately after a storm event which causes an increase in the discharge volume. The permittee shall report rainfall data on the Discharge Monitoring Report during periods where alternate limits are utilized.
- (3) Monitoring for temperature is required only from May 15th through September 30th. Monitoring shall be performed hourly (24 hours per day). The discharge shall not cause the temperature of the receiving waters, beyond a mixing zone, to exceed 68°F or to exceed the ambient stream temperature, whichever is higher. A mixing zone extending no greater than 50 feet radially from the point of discharge is allowed. The mixing zone may not form a thermal barrier to aquatic life.

"Temperature Difference" is a calculated value, arrived at by subtracting the ambient receiving water temperature or 68°F, whichever is higher, from the effluent temperature or the temperature of the receiving water at the edge of a mixing zone, whichever is lower.

If the temperature of the effluent is equal to or less than 68°F, the only temperature measurement necessary to calculate the "temperature difference" shall be one measured at the point of discharge to State waters or at a representative internal monitoring point.

A positive "temperature difference" shall be entered as ">0" and shall be reported as a noncompliance.

The permittee shall maintain a record of all temperature measurements and their location, to be submitted as an addendum to each discharge monitoring report.

I. SPECIAL CONDITIONS

B. DEFINITIONS

1. The "monthly, quarterly, semi-annual, or annual average" effluent concentration means the value calculated by computing the arithmetic mean of all the daily determinations of concentration made during any calendar-month, 3-month, 6-month, or 12-month period respectively.
2. The "daily maximum" effluent concentration means the highest reading of any daily determination of concentration.
3. "Daily determination of concentration" means one analysis performed on any given sample representing flow during a calendar day, with one number in mg/l or other appropriate units as an outcome.
4. "Grab sample" means an individual sample collected in less than 15 minutes. Grab samples collected for pH and total residual chlorine shall be analyzed within 15 minutes of time of sample collection.
5. "Composite sample" means a combination of individual samples obtained at least at hourly intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval (for constant volume samples) is proportional to the flow rates over the time period used to produce the composite.
6. "i-s" = immersion stabilization - means a calibrated device immersed in the effluent stream until the reading is stabilized.
7. The "daily maximum" temperature means the highest temperature observed during a 24-hour period or, if flows are of shorter duration during the operating day.
8. The "minimum" value means the lowest value measured during a 24-hour period.
9. "Bypass" means the intentional diversion of wastes from any portion of a treatment facility.
10. "Upset" means the exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
11. "Estimated" flow means a calculated volume or discharge rate which is based on a technical evaluation of the sources contributing to the discharge including, but not limited to, pump capabilities, water meters, and batch discharge volumes.
12. "Measured" flow means any method of liquid volume measurement the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.
13. "Recorded" flow, pH, temperature, etc., means any method of providing a permanent, continuous record including, but not limited to, circular and strip charts.

14. "Acid or ferruginous mine drainage (AMD)" is mine drainage which, prior to treatment, either has a pH of less than 6.0 or a total iron concentration equal to or greater than 10.0 mg/l.

C. TOXIC POLLUTANT REPORTING

The permittee shall notify the Department as soon as it is known or suspected that any toxic pollutants which are not specifically limited by this permit have been discharged at levels specified in 40 CFR Part 122.42(a).

D. REMOVED SUBSTANCES

1. Within 30 days after notification by the Department, the permittee shall provide information on the disposal of any removed substances, as defined by General Condition B.7, including the following information:
 - a. A suitable map showing all areas used for disposal of removed substances.
 - b. The physical, chemical, and biological characteristics, as appropriate; quantities of any removed substances; and the method of disposal.
 - c. If disposal is handled by persons other than the permittee, identification of the contractor or subcontractor, their mailing address, and the information specified in a and b above.
2. The Department's notification may also require the permittee to provide the above information prior to the use of new or additional disposal areas, contractors, or subcontractors.

E. ANALYTICAL LABORATORY

Within 30 days after the effective date of this permit, the permittee shall submit to the Department (attn: Industrial Discharge Permits Division) the name and address of the analytical laboratory (including the permittee's own laboratory) which is used to perform the monitoring required by this permit.

If the laboratory changes during the effective period of this permit, the permittee shall notify the Department of the new laboratory within 30 days after the change.

F. WASTEWATER OPERATOR CERTIFICATION

As of the effective date of this permit, the permittee's facility shall be operated by an industrial wastewater operator duly certified by the Maryland Board of Waterworks and Waste Systems Operators. Certification shall be for operation of a Class 2 industrial wastewater works, unless the Board determines that a different classification is appropriate. At no time during the effective period of this permit shall the treatment facilities be operated for more than two months without a certified operator.

G. FLOW MONITORING

In lieu of providing measured flow at Outfall 002 and Outfall 003 (defined in the Special Conditions Definitions section), the permittee may estimate flows and submit the following information at the time of submission of the initial discharge monitoring report and/or upon any change in the methodology:

1. a description of the methodology used to estimate flow at each outfall where flow measurement equipment is not present;
2. documentation appropriate to the methodology utilized which provides information necessary to support the validity of the reported flow estimate. If actual measurements or observations are made, a description of typical sampling times, locations, and persons performing the measurements/observations should also be provided.
3. a description of the factors (e.g., batch discharges, intermittent operation, etc.) which cause flow at the outfall to fluctuate significantly from the estimate provided.

H. FLOW BASIS FOR ANNUAL DISCHARGE PERMIT FEE

The Department will calculate permit fees annually and will invoice the permittee based upon average discharge flow. Permit fees are payable in advance to the Department by July 1 of each fiscal year (July 1 through June 30).

The permittee shall provide to the Department's Industrial Discharge Permits Division by May 1 of each year an updated average discharge flow value for the next billing period if the flow volume used to calculate the most recent annual permit fee (or, if the permit was renewed within the past year, the flow volume used to calculate the application fee) differs significantly from either of the following flow determinations:

1. average flow data from the current fiscal year as reported on the permittee's discharge monitoring reports, or
2. the estimated flow volume for the next billing period based upon recent changes at the facility.

The permittee shall include with their flow revision notification a summary of flow data reported on discharge monitoring reports for the previous year and any other supporting documentation to be used as the basis for the flow determination.

I. REAPPLICATION FOR A PERMIT

The Department is implementing a schedule for issuance of discharge permits grouped by geographical areas (watersheds). To implement the watershed-based schedule, the Department may revoke and reissue this permit concurrently with other permits in the watershed.

Unless the Department grants permission for a later date, the permittee shall submit a renewal application by no later than 12 months prior to the expiration date on the first page of the permit, or notify the Department of the intent to cease discharging by the expiration date.

In the event that a timely and sufficient reapplication has been submitted and the Department is unable, through no fault of the permittee, to issue a new permit before the expiration date of this permit, the terms and conditions of this permit are automatically continued and remain fully effective and enforceable.

J. PERMIT REOPENER FOR TOTAL MAXIMUM DAILY LOAD (TMDL)

This permit may be reopened as a major modification to implement any applicable requirements associated with a Total Maximum Daily Load (TMDL) issued or approved for this watershed (Casselman River, 05.02.02.04) including but not limited to: biological impairment.

K. BIOMONITORING PROGRAM

1. Within three months of the effective date of the permit, the permittee shall submit to the Department for approval a study plan to evaluate wastewater toxicity at Outfall 001 by using biomonitoring. The study plan should include at a minimum a discussion of:
 - a. wastewater and production variability
 - b. sampling & sample handling
 - c. source & age of test organisms
 - d. source of dilution water
 - e. testing procedures/experimental design
 - f. data analysis
 - g. quality assurance/quality control
 - h. report preparation
 - i. testing schedule
2. The testing program shall consist of definitive quarterly chronic testing.
 - a. Each quarterly testing shall include the Ceriodaphnia survival and reproduction test and the fathead minnow larval survival and growth test (except where modified in 2.b below).
 - b. The permittee shall include in the required study plan alternatives to the use of Ceriodaphnia such as stonefly (in lieu of or in addition to the standard Ceriodaphnia survival and reproduction test) and the use of rainbow trout (in lieu of or in addition to the standard fathead minnow larval survival and growth test) for approval by the Department. Selection of alternate test species should follow approved EPA and NPDES protocols and reflect, to the extent possible, the biological nature of the listed endangered species.
3. The samples used for biomonitoring shall be collected at the same time and location as the samples analyzed for the effluent limitations and monitoring requirements for this outfall. For chlorinated effluents, samples shall be collected after dechlorination.
4. The following EPA documents discuss the appropriate methods:
 - a. Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms, Third Edition, EPA-821-R-02-014, October 2002.
 - b. Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, Fourth Edition, EPA-821-R-02-013, October 2002.
5. Test results shall be submitted to the Department within one month of completion of each set of tests.
6. Test results shall be reported in accordance with MDE/WMA "Reporting Requirements for Effluent Biomonitoring Data," 3/21/03.

7. As a minimum, the reported chronic results shall be expressed as NOEC, LOEC, ChV, and IC₂₅.
8. If significant mortality occurs during the first 48 hours of the chronic tests, 48-hour LC50s shall be calculated and reported along with the chronic results.
9. If testing is not performed in accordance with MDE-approved study plan, additional testing shall be required by the Department.
10. If the test results of any two consecutive valid toxicity tests conducted within any 12-month period show acute or chronic toxicity, the permittee shall repeat the test within 30 days to confirm the findings of acute or chronic toxicity. If acute and/or chronic toxicity is confirmed, the permittee shall:
 - a. Eliminate the source of toxicity through operational changes as soon as possible but in any case not longer than within three months, or
 - b. Perform a TRE. If the permittee repeats the toxicity testing as stated above and the results of the repeat test do not confirm the acute or chronic toxicity, the Department will require the permittee to repeat the toxicity testing as stated above to reconfirm a finding of no acute or chronic toxicity. After reconfirmation, the permittee shall complete any remaining quarterly testing required.
11. If plant processes or operations change so that there is a significant change in the nature of the wastewater, the Department may require the permittee to conduct a new set of tests.
12. Submit all Biomonitoring related materials to:

Maryland Department of the Environment
Water Management Administration
Compliance Program
1800 Washington Boulevard, Suite 420
Baltimore, Maryland 21230-1708

L. TOXICITY REDUCTION EVALUATION

The permittee shall conduct a Toxicity Reduction Evaluation (TRE) when a review of toxicity test data by the Department indicates unacceptable acute or chronic effluent toxicity. A TRE is an investigation conducted to identify the causative agents of effluent toxicity, isolate the source(s), determine the effectiveness of control options, implement the necessary control measures and then confirm the reduction in toxicity.

1. Within 90 days following notification by the Department that a TRE is required, the permittee shall submit a plan of study and schedule for conducting a TRE. The permittee shall conduct the TRE study consistent with the submitted plan and schedule.
2. This plan should follow the framework presented in Generalized Methods for Conducting Industrial Toxicity Reduction Evaluations (EPA/600/2-88/070).
3. Beginning 60 days following the date of the Department's acceptance of the TRE study plan and every 60 days thereafter, the permittee shall submit progress reports including all relevant

test data to the Department. This shall continue until completion of the toxicity reduction confirmation.

4. Within 60 days following completion of the toxicity identification, or the source identification phase of the TRE, the permittee shall submit to the Department a plan and schedule for implementing those measures necessary to eliminate acute toxicity and/or reduce chronic toxicity to acceptable levels. The implementation of these measures shall begin immediately upon submission of this plan.
5. Within 60 days after completing implementation of the control measures to eliminate or reduce toxicity, the permittee shall submit to the Department for approval a study plan to confirm the elimination or reduction of toxicity by using biomonitoring.
6. If, for any reason, the implemented measures do not result in compliance with the Department's toxicity limitations, the permittee shall continue the TRE.

M. THREATENED OR ENDANGERED SPECIES

It has been determined that at least two State listed endangered species habitats are situated downstream from the discharges that are authorized under this permit. Thus, the issuance of this permit does not relieve the permittee from the responsibility to ensure that the continued existence of these endangered species is not put at risk or jeopardized by the activities authorized under this permit. Notwithstanding this responsibility of the permittee, the Department may also at any time impose immediate additional restrictions and/or reopen this permit to modify or revoke the discharge authorization in an effort to ensure adequate protection and the continued existence of the endangered species.

N. PROTECTION OF WATER QUALITY

It is a violation of this permit to discharge any substance not otherwise listed under the permit's "Effluent Limitations and Monitoring Requirements" special conditions at a level which would cause or contribute to any exceedance of the numerical water quality standards in COMAR 26.08.02.03 unless the level and the substance were disclosed in writing in the permit application prior to the issuance of the permit. If a discharge regulated by this permit causes or contributes to an exceedance of the water quality standards in COMAR 26.08.02.03, including but not limited to the general water quality standards, or if the discharge includes a pollutant that was not disclosed or addressed during the public participation process for the permit, the Department is authorized to modify, suspend or revoke this permit or take enforcement action to address unlawful discharges of pollutants.

O. TREATMENT CHEMICALS

To obtain authorization for the discharge of water treatment products, before commencing the use of the new product(s), the permittee shall notify the Department (Industrial Discharge Permits Division) in writing. The notification shall include the product name, aquatic toxicity data from the manufacturer or vendor, information on the chemical composition of the product and the concentrations that will exist in the effluent. Based on this information, if the Department determines that the new product may cause toxicity in the receiving stream, the Department may restrict the use of the product and/or direct the permittee to perform additional bio-monitoring of the wastewater.

P. MONITORING LOCATIONS

Prior to commencement of discharge from any authorized outfall, the permittee shall submit a description of the proposed monitoring location to be used to collect effluent samples required by this permit. The proposed location may be used for sampling only after written approval from the Department's Industrial Discharge Permits Division.

Q. OTHER REQUIREMENTS

1. The permittee shall maintain roads, accessible by four-wheel-drive vehicles, to within 100 feet of each sediment control pond.
2. The permittee is not authorized to discharge water containing phosphorus, nitrogen, or anhydrous ammonia without prior approval from the Department's Industrial Discharge Permits Division.
3. The permittee is prohibited from using chlorine or chlorine products for the treatment of wastewater that will be discharge from this site.
4. The requirements for discharges from sediment ponds remain in effect until the SMCRA (reclamation) bond has been released.
5. This permit does not authorize the discharge of acid mine drainage except through the treated and monitored discharge point Outfall 001.
6. No later than 90 days after the permit effective date, the permittee shall submit to the Department for approval a plan and schedule for performing site inspections to identify and address the occurrence of any acid mine drainage seeps. The plan shall provide for adequate conditions for quickly detecting, reducing, and addressing acid mine drainage seeps, including but not limited to immediate or readily available access to specific equipment and supplies required under the plan. Discharge may not occur until the plan has been approved by the Department, which shall review the plan and issue a decision thereon within 60 days after receiving it from the permittee. If no decision is made within 60 days, the plan will be deemed to have been approved. This action will be conducted in consultation with DNR and is being required to further protect water quality in the Casselman River, including but not limited to the listed endangered species.
7. No later than 90 days after the permit effective date, the permittee shall implement its commitment to the Maryland Bureau of Mines to post a bond or other financial security in an amount determined by the MDE Bureau of Mines to be sufficient to pay the estimated costs of post-mining pumping and treatment to control mine pool elevation and water quality and for restoration of the river and affected endangered species in the event that MDE determines that acid mine drainage seepage results from the mining activity and impacts water quality in the Casselman River. Discharge may not occur until the bond or other financial security has been established. This action is being required to further protect water quality in the Casselman River, including but not limited to the listed endangered species.
8. Termination of permit coverage will not be authorized without a plan approved by the Department for identifying and controlling any potential for the future occurrence of acid mine drainage.

R. REPORTING REQUIREMENTS

No later than each anniversary of the effective date of this permit, the permittee shall submit an annual report to the Department's Industrial Discharge Permits Division which includes the following information:

1. estimated remaining mine capacity; and,
2. operational changes during reporting period.

S. EVALUATION OF THE IMPACT OF HIGHER DISCHARGE AMOUNTS ON ENDANGERED SPECIES

The limitation for flow may be increased by the Department upon approval of a demonstration that the discharge will not impact the continued presence of endangered species at higher discharge amounts. Any demonstration shall be based on a study plan approved by the Department and data covering two years of discharges. The study shall include flow/stream flow velocity monitoring in downstream segments of endangered species habitat and evaluate the influence of steeper stream gradients in these locations on stream flow velocity. The Department reserves the right to select the contractor selected for performing the demonstration.

T. ADDITIONAL MONITORING

Within 2 years after commencing discharges authorized by this permit, the permittee shall submit to the Department completed sections V and VI of NPDES application Form 2C except for those parameters already monitored as a requirement of this permit. This condition is a requirement of 40 CFR 122.21(k)(5)(vi).

U. SPECIAL STORM WATER CONDITIONS

In addition to the standard storm water conditions in Special Condition X below, the permittee shall address the following in the Storm Water Pollution Prevention Plan: storm water runoff from the area around the conveyor belts shall be addressed, as well as other areas not controlled by the Surface Mine Control and Reclamation Act permit.

V. FACILITY RE-START REQUIREMENTS

In the event of an extended shutdown of mining operations and/or discharges (longer than two weeks), the permittee shall submit a plan to the Department describing the manner of re-start and the steps that will be taken to ensure discharges that are compliant with the requirements of this permit. The Department, in consultation with the Department of Natural Resources, shall provide written approval of the re-start plan prior to the resumption of discharges.

W. REAL-TIME MONITORING FEASIBILITY STUDY

The permittee shall submit to the Department, within one year after the permit effective date, the results of a study considering potential options for implementation of real-time reporting of effluent discharge rate, conductivity, temperature, and pH. The evaluation shall consider the use of solar power modules, data transmission via cell or satellite, water quality monitoring sondes, and product vendors who provide an internet site for accessing the real-time data. The permittee shall also evaluate similar options for remote monitoring of the receiving waters with real-time reporting. The evaluation shall also include an implementation schedule(s) consistent with the findings of the study. The results shall be submitted to the Department within one year of the permit effective date after which time the Department may reopen the permit to implement real-time reporting requirements.

X. STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY

1. Storm Water Pollution Prevention Plans - General

The permittee shall have and implement a storm water pollution prevention plan beginning on the effective date of this permit. The storm water pollution prevention plan shall be prepared in accordance with sound engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility.

In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit.

- a. In developing this plan, the permittee may use as a reference "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices" (EPA Document #EPA832-R-92-006) or the "Summary Guidance" (EPA Document #EPA833-R-92-002). These documents can be obtained from the EPA Clearinghouse (phone: 1-800-490-9198) or the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (phone: 703-605-6000).
- b. The plan shall be signed in accordance with Part II.C.18 of this permit, and be retained on site in accordance with Part II.C.1 of this permit. The permittee shall make plans available upon request to the Department, and in the case of a storm water discharge associated with industrial activity which discharges to a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system.
- c. If the plan is reviewed by the Department, the Department will notify the permittee, at any time, that the plan does not meet one or more of the minimum requirements of this Part. After such notification from the Department, the permittee shall make changes to the plan to meet the objections of the Department and shall submit to the Department a written certification that the requested changes have been made and implemented. Unless otherwise provided by the Department, the permittee shall have 90 days after such notification to make the necessary changes.
- d. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance which creates a potential for the discharge of pollutants to the waters of the State or if the storm water pollution prevention plan proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. Amendments to the plan may be reviewed by the Department as described above.

2. Storm Water Pollution Prevention Plan - Contents

The plan shall include, at a minimum, the following items:

- a. Each plan shall provide a description of potential sources which may be reasonably expected to add pollutants to storm water discharges. Each plan shall identify all

activities and materials which may potentially be significant pollutant sources. Each plan shall include:

- i. A site map indicating an outline of the drainage area of each storm water outfall; each existing structural control measure to reduce pollutants in storm water runoff; and surface water bodies, including drainage ditches and wetlands.
 - ii. A topographic map (or other map, if a topographic map is unavailable), extending one-quarter of a mile beyond the property boundaries of the facility. The requirements of this condition may be included in the site map required above, if appropriate.
 - iii. A narrative description of significant materials that have been treated, stored, or disposed in a manner which allowed exposure to storm water at anytime from three years prior to obtaining coverage under this permit until the time the present method of on-site storage or disposal was initiated; materials management practices employed to minimize contact of these materials with storm water runoff; materials loading and access areas; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.
 - iv. For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing pollutants, a prediction of the direction of flow, and an estimate of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity; and
 - v. A summary of all existing sampling data describing pollutants in storm water discharges.
- b. The permittee shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:
- i. A preventive maintenance program that involves timely inspection and maintenance of storm water management devices (cleaning oil/water separators, catch basins) as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.
 - ii. Good housekeeping that requires the maintenance of a clean, orderly facility.
 - iii. Spill prevention and response procedures shall be identified in the plan and made known to the appropriate personnel. The necessary equipment to implement a cleanup shall be available to the appropriate personnel.

- iv. The plan shall prevent sediment and erosion by identifying areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identifying measures to limit erosion.
 - v. The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures determined to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see 2.a - description of potential pollutant sources) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.
 - vi. Qualified plant personnel shall be identified to visually inspect designated equipment and plant areas. A site inspection shall be conducted annually by such personnel to verify that the description of potential pollutant sources required under 2.a is accurate, the drainage map has been updated to reflect current conditions, and the controls to reduce pollutants identified in the storm water pollution prevention plan are being implemented and are adequate. In particular, material handling areas shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. A tracking or follow-up procedure shall be used to ensure that each inspection results in an appropriate response.
 - vii. Spills or other discharge incidents, and information describing the quality and quantity of storm water discharges shall be in the facility records. Maintenance activities shall be documented and recorded with inspection and discharge records. All records shall be maintained at the facility, for a minimum of three years. This period shall be automatically extended during the course of litigation, or when requested by the Department.
- c. Storm water management programs may include requirements for Spill Prevention Control and Countermeasure (SPCC) plans under Section 311 of the Clean Water Act or Best Management Practices (BMPs) programs otherwise required by any NPDES permit and may incorporate any part of such plans into the storm water pollution prevention plan by reference.
 - d. Special Requirements for Storm Water Discharges Associated with Industrial Activity to Municipal Separate Storm Sewer Systems: Facilities covered by this permit shall comply with applicable requirements in municipal storm water management programs developed under State/NPDES permits issued for the discharge of the municipal separate storm sewer system that receives the facility's discharge, provided the municipal operator has notified the discharger of such conditions. These facilities shall make storm water pollution prevention plans available to the municipal operator of the system upon request.

- e. Storage piles of salt used for deicing or other commercial or industrial purposes shall be enclosed or covered to prevent exposure to precipitation.
- f. The description of the storm water Pollution Prevention Committee shall identify specific individuals within the plant organization who are responsible for developing the storm water pollution prevention plan and assisting the plant manager in its implementation, maintenance, and revision. The activities and responsibilities of the committee should address all aspects of the facility's storm water pollution prevention plan.
- g. Employee training programs shall inform personnel at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics, such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.

3. Storm Water Pollution Prevention Plan - Additional Requirements For Facilities Subject To SARA Title III, Section 313 Requirements

Storm water pollution prevention plans for facilities subject to reporting requirements under SARA Title III, Section 313 (42 U.S.C. § 11023) are required to include, in addition to the information required above, a discussion of the facility's conformance with the following (appropriate) guidelines:

- a. In areas where Section 313 water priority chemicals are stored, processed or otherwise handled, appropriate containment, drainage control and/or diversionary structures shall be provided. At a minimum, one of the following preventive systems or its equivalent shall be used:
 - i. Curbing, culverts, gutters, sewers or other forms of drainage control to prevent or minimize the potential for storm water runoff to come into contact with significant sources of pollutants; or
 - ii. Roofs, covers, liners, or other forms of appropriate protection to prevent storage piles from leaching or exposure to storm water and wind.
- b. The storm water pollution prevention plan shall include a complete discussion of measures taken to conform with the following applicable guidelines, other effective storm water pollution prevention procedures, and applicable State rules, regulations and guidelines.
 - i. No tank or container shall be used for the storage of a Section 313 water priority chemical unless its material and construction are compatible with the material stored and conditions of storage, such as pressure and temperature, etc. Liquid storage areas for Section 313 water priority chemicals shall be operated to prevent discharges of Section 313 chemicals by means such as secondary containment for at least the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation, a strong spill contingency and integrity testing plan, and/or other equivalent measures.
 - ii. Truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals shall be operated to prevent discharges of Section 313

water priority chemicals by means such as the placement and maintenance of drip pans (including the proper disposal of materials collected in the drip pans) where spillage may occur (such as hose connections, hose reels and filler nozzles) for use when making and breaking hose connections; a strong spill contingency and integrity testing plan; and/or other equivalent measures.

- iii. In plant areas where Section 313 water priority chemicals are transferred, processed or otherwise handled, piping, processing equipment and materials handling equipment shall be designed and operated so as to prevent discharges of Section 313 chemicals, and be composed of materials that are compatible with the substances handled. Additional protection, such as covers or guards to prevent wind blowing, spraying or releases from pressure relief vents from causing a discharge of Section 313 water priority chemicals to the drainage system shall be provided, as appropriate, to control the releases.
- iv. Discharges from secondary containment areas.
 - (a) Drainage from secondary containment shall be restrained by valves or other positive means to prevent a spill or other excessive leakage of Section 313 water priority chemicals into the drainage system. After a visual inspection of the storm water and determination that no product is present, containment areas may be emptied by pumps or ejectors; however, these shall be manually activated.
 - (b) Flapper-type drain valves shall not be used to drain containment areas. Valves used for the drainage of containment areas shall be of manual, open-and-close design.
 - (c) Records of the frequency and estimated volume (in gallons) of discharges from containment areas shall be kept at the facility for a minimum of three years.
 - (d) In lieu of facility drainage engineered as described above, the final discharge of all in-facility storm sewers shall be equipped with a diversion system that could, in the event of an uncontrolled spill of Section 313 water priority chemicals, return the spilled material to the facility.
 - (e) Areas of the facility [those not addressed in paragraphs (a), (b), (c) or (d)], from which runoff which may contain Section 313 water priority chemicals or spills of Section 313 water priority chemicals and which could cause a discharge shall incorporate the necessary drainage or other control features to prevent discharge of spilled or improperly disposed material and ensure the mitigation of pollutants in runoff or leachate.
- c. Facilities shall have the necessary security systems to prevent accidental or intentional entry which could cause a discharge or disrupt treatment. Security systems shall be described in the plan and address fencing, lighting, vehicular traffic control, and securing of equipment and buildings.
- d. The storm water pollution prevention plan shall assess the potential of various sources at the plant to contribute pollutants to storm water discharges associated with

industrial activity. The plan shall include an inventory of the types of materials handled. Facilities shall include in the plan a description of releases to land or water of SARA Title III water priority chemicals that have occurred at any time after July 1, 1989. Each of the following shall be evaluated for the reasonable potential for contributing pollutants to runoff: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. Factors to consider include the toxicity of chemicals; quantity of chemicals used, produced, or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants.

II. GENERAL CONDITIONS

A. MONITORING AND REPORTING

1. REPRESENTATIVE SAMPLING

Samples and measurements taken as required herein shall be taken at such times as to be representative of the quantity and quality of the discharges during the specified monitoring periods.

2. REPORTING-MONITORING RESULTS SUBMITTED MONTHLY

Monitoring results obtained during each calendar month shall be summarized on a Discharge Monitoring Report Form (EPA No. 3320-1) and submitted to the Department postmarked no later than the 28th day of the following month. Reporting periods shall end on the last day of each month. Duplicate signed copies of the Discharge Monitoring Reports shall be submitted to:

Maryland Department of the Environment
Water Management Administration
Compliance Program
STE - 425
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

and to

U.S. Environmental Protection Agency Region III
Office of Compliance and Enforcement
NPDES Branch (3WP31)
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

3. SAMPLING AND ANALYSIS METHODS

The analytical and sampling methods used shall conform to procedures for the analysis of pollutants as identified in Title 40 CFR Part 136 - "Guidelines Establishing Test Procedures for the Analysis of Pollutants" unless otherwise specified.

4. DATA RECORDING REQUIREMENTS

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. the exact place, date, and time of sampling or measurement;
- b. the person(s) who performed the sampling or measurement;
- c. the dates and times the analyses were performed;
- d. the person(s) who performed the analyses;
- e. the analytical techniques or methods used; and
- f. the results of all required analyses.

5. MONITORING EQUIPMENT MAINTENANCE

The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation to insure accuracy of measurements.

6. ADDITIONAL MONITORING BY PERMITTEE

If the permittee monitors any pollutant, using approved analytical methods as specified above, at the locations designated herein more frequently than required by this permit, the results of such monitoring, including the increased frequency, shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report form (EPA No. 3320-1).

7. RECORDS RETENTION

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed, calibration and maintenance of instrumentation, and original recordings from continuous monitoring instrumentation shall be retained for a minimum of three years. This period shall be automatically extended during the course of litigation, or when requested by the Department.

B. MANAGEMENT REQUIREMENTS

1. CHANGE IN DISCHARGE

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit at a level in excess of that authorized shall constitute a violation of the terms and conditions of this permit. Anticipated facility expansions, production increases or decreases, or process modifications, which will result in new, different, or an increased discharge of pollutants, shall be reported by the permittee by submission of a new application or, if such changes will not violate the effluent limitations specified in this permit, by notice to the Department. Following such notice, the permit may be modified by the Department to specify and limit any pollutants not previously limited.

2. NONCOMPLIANCE WITH EFFLUENT LIMITATIONS

If, for any reason, the permittee does not comply with or will be unable to comply with any daily maximum or daily minimum effluent limitation specified in this permit, the permittee shall notify the Inspection and Compliance Program by telephone at (410) 537-3510 within 24

hours of becoming aware of the noncompliance. Within five calendar days, the permittee shall provide the Department with the following information in writing:

- a. a description of the non-complying discharge including its impact upon the receiving waters;
- b. cause of noncompliance;
- c. anticipated time the condition of noncompliance is expected to continue or if such condition has been corrected, the duration of the period of noncompliance;
- d. steps taken by the permittee to reduce and eliminate the non-complying discharge;
- e. steps to be taken by the permittee to prevent recurrence of the condition of noncompliance; and
- f. a description of the accelerated or additional monitoring by the permittee to determine the nature and impact of the noncomplying discharge.

3. FACILITIES OPERATION

All treatment, control and monitoring facilities, or systems installed or used by the permittee, are to be maintained in good working order and operated efficiently.

4. ADVERSE IMPACT

The permittee shall take all reasonable steps to minimize or prevent any adverse impact to waters of the State or to human health resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

5. BYPASSING

Any bypass of treatment facilities necessary to maintain compliance with the terms and conditions of this permit is prohibited unless:

- a. the bypass is unavoidable to prevent a loss of life, personal injury or substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources;
- b. there are no feasible alternatives;
- c. notification is received by the Department within 24 hours (if orally notified, then followed by a written submission within five calendar days of the permittee's becoming aware of the bypass). Where the need for a bypass is known (or should have been known) in advance, this notification shall be submitted to the Department for approval at least ten calendar days before the date of bypass or at the earliest possible date if the period of advance knowledge is less than ten calendar days; and
- d. the bypass is allowed under conditions determined by the Department to be necessary to minimize adverse effects.

6. CONDITIONS NECESSARY FOR DEMONSTRATION OF AN UPSET

An upset shall constitute an affirmative defense to an action brought for noncompliance with technology-based effluent limitations only if the permittee demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

- a. an upset occurred and that the permittee can identify the specific cause(s) of the upset;
- b. the permitted facility was at the time being operated in a prudent and workman-like manner and in compliance with proper operation and maintenance procedures;
- c. the permittee submitted a 24-hour notification of upset in accordance with the reporting requirements of General Condition II.B.2 above;
- d. the permittee submitted, within five (5) calendar days of becoming aware of the upset, documentation to support and justify the upset; and
- e. the permittee complied with any remedial measures required to minimize adverse impact.

7. REMOVED SUBSTANCES

Wastes such as solids, sludges, or other pollutants removed from or resulting from treatment or control of wastewaters, or facility operations, shall be disposed of in a manner to prevent any removed substances or runoff from such substances from entering or from being placed in a location where they may enter the waters of the State.

8. POWER FAILURE

In order to maintain compliance with the effluent limitations and prohibitions of this permit, the permittee shall either:

- a. provide an alternative power source sufficient to operate the wastewater collection and treatment facilities or,
- b. halt, reduce or otherwise control production and all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater collection and treatment facilities.

C. RESPONSIBILITIES

1. RIGHT OF ENTRY

The permittee shall permit the Secretary of the Department, the Regional Administrator for the Environmental Protection Agency, or their authorized representatives, upon the presentation of credentials to:

- a. enter upon the permittee's premises where an effluent source is located or where any records are required to be kept under the terms and conditions of this permit;
- b. access and copy, at reasonable times, any records required to be kept under the terms and conditions of this permit;

- c. inspect, at reasonable times, any monitoring equipment or monitoring method required in this permit;
- d. inspect, at reasonable times, any collection, treatment, pollution management, or discharge facilities required under this permit; and
- e. sample, at reasonable times, any discharge of pollutants.

2. TRANSFER OF OWNERSHIP OR CONTROL OF FACILITIES

In the event of any change in ownership or control of facilities from which the authorized discharge emanates, the permit may be transferred to another person if:

- a. the permittee notifies the Department in writing, of the proposed transfer;
- b. a written agreement, indicating the specific date of proposed transfer of permit coverage and acknowledging responsibilities of current and new permittees for compliance with the liability for the terms and conditions of this permit, is submitted to the Department; and
- c. neither the current permittee nor the new permittee receive notification from the Department, within 30 calendar days, of intent to modify, revoke, reissue or terminate the existing permit.

3. REAPPLICATION FOR A PERMIT –[Reserved]

4. AVAILABILITY OF REPORTS

Except for data determined to be confidential under Section 308 of the Clean Water Act, 33 U.S.C. § 1318, all submitted data shall be available for public inspection at the offices of the Department and the Regional Administrator of the Environmental Protection Agency.

5. PERMIT MODIFICATION

A permit may be modified by the Department upon written request of the permittee and after notice and opportunity for a public hearing in accordance with and for the reasons set forth in 40 CFR § 122.62 and 122.63.

6. PERMIT MODIFICATION, SUSPENSION, OR REVOCATION

After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked and reissued in whole or in part during its term for causes including, but not limited to, the following:

- a. violation of any terms or conditions of this permit;
- b. obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- c. a change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; or

- d. a determination that the permitted discharge poses a threat to human health or welfare or to the environment and can only be regulated to acceptable levels by permit modification or termination.
- e. upon a final, unreviewable determination that the permittee lacks, or is in violation, of any federal, state, or local approval necessary to conduct the activities by this permit.

7. TOXIC POLLUTANTS

If a toxic effluent standard or prohibition (including any schedule of compliance specified in such toxic effluent standard or prohibition) is established by the U.S. Environmental Protection Agency, or pursuant to Section 9-314 of the Environment Article, Annotated Code of Maryland, for a toxic pollutant which is present in the discharges authorized herein and such standard is more stringent than any limitation upon such pollutant in this permit, this permit shall be revoked and reissued or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified. Any effluent standard established in this case for a pollutant which is injurious to human health is effective and enforceable by the time set forth in the promulgated standard, even absent permit modification.

8. OIL AND HAZARDOUS SUBSTANCES PROHIBITED

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibility, liability, or penalties to which the permittee may be subject under Section 311 of the Clean Water Act (33. U.S.C. § 1321), or under the Annotated Code of Maryland.

9. CIVIL AND CRIMINAL LIABILITY

Except as provided in permit conditions on "bypassing," "upset," and "power failure," nothing in this permit shall be construed to preclude the institution of any legal action nor relieve the permittee from civil or criminal responsibilities and/or penalties for noncompliance with Title 9 of the Environment Article, Annotated Code of Maryland or any federal, local, or other State law or regulation.

10. PROPERTY RIGHTS/COMPLIANCE WITH OTHER REQUIREMENTS

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, State or local laws or regulations.

11. SEVERABILITY

The provisions of this permit are severable. If any provisions of this permit shall be held invalid for any reason, the remaining provisions shall remain in full force and effect. If the application of any provision of this permit to any circumstances is held invalid, its application to other circumstances shall not be affected.

12. WATER CONSTRUCTION AND OBSTRUCTION

This permit does not authorize the construction or placing of physical structures, facilities, or debris, or the undertaking of related activities in any waters of the State.

13. COMPLIANCE WITH WATER POLLUTION ABATEMENT STATUTES

The permittee shall comply at all times with the provisions of the Environment Article, Title 7, Subtitle 2 and Title 9, Subtitle 3 of the Annotated Code of Maryland and the Clean Water Act, 33 U.S.C. § 1251 et seq.

14. ACTION ON VIOLATIONS

The issue or reissue of this permit does not constitute a decision by the State not to proceed in administrative, civil, or criminal action for any violations of State law or regulations occurring before the issue or reissue of this permit, nor a waiver of the State's right to do so.

15. CIVIL PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS

In addition to civil penalties for violations of State water pollution control laws set forth in Section 9-342 of the Environment Article, Annotated Code of Maryland, the Clean Water Act 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 of such sections in a permit issued under Section 402 of the Act or in a permit issued under Section 404 of the Act, is subject to a civil penalty not to exceed \$27,500 per day for each violation.

16. CRIMINAL PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS

In addition to criminal penalties for violations of State water pollution control laws set forth in Section 9-343 of the Environment Article, Annotated Code of Maryland, the Clean Water Act provides that:

- a. any person who negligently violates Section 301, 302, 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, or in a permit issued under Section 404 of the Act, is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one (1) year, or by both.
- b. any person who knowingly violates Section 301, 302, 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, or in a permit issued under Section 404 of the Act, is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than three (3) years, or by both.
- c. any person who knowingly violates Section 301, 302, 306, 307, 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, or in a permit issued under Section 404 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, is subject to a fine of not more \$25,000 or imprisonment of not more than 15 years, or both.
- d. any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with or

renders inaccurate any monitoring device or method required to be maintained under the Act, is subject to a fine of not more than \$10,000 or by imprisonment for not more than two (2) years, or by both.

17. DUTY TO PROVIDE INFORMATION

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

18. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Director shall be signed and certified as required by 40 CFR 122.22.

19. REOPENER CLAUSE FOR PERMITS

This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301, 304, and 307 of the Clean Water Act [33 USCS §§ 1311, 1314, 1317] if the effluent standard or limitation so issued or approved:

- a. contains different conditions or is otherwise more stringent than any effluent limitation in this permit or
- b. controls any pollutant not limited in this permit. This permit, as modified or reissued under this paragraph, shall also contain any other requirements of the Act then applicable.

D. AUTHORITY TO ISSUE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

On September 5, 1974, the Administrator of the U.S. Environmental Protection Agency approved the proposal submitted by the State of Maryland for the operation of a permit program for discharges into navigable waters pursuant to Section 402 of the Clean Water Act, 33 U.S.C. Section 1342.

Pursuant to the aforementioned approval, this discharge permit is both a State of Maryland discharge permit and a NPDES permit.

This permit and the authorization to discharge shall expire at midnight on the expiration date. The permittee shall not discharge after that date unless a new application has been submitted to the Department in accordance with the renewal application provisions of this permit.

Jay G. Sakai, Director
Water Management Administration