

Clean Water Act §401 Certification

for the

Application for Certification
Pursuant to Section 401 of the
Federal Clean Water Act

CERTIFICATION

Submitted by:

UNITED STATE ENVIRONMENTAL PROTECTION AGENCY

NPDES PERMIT NO. OR0032638
(“permit”)

For the
Confederated Tribes of Warm Springs,
WASTEWATER TREATMENT PLANT: Warm Springs, OR 97761
(“Permittee”)

Pursuant to Tribal Ordinances 45 and 80
& Tribal Code Chapters 433 and 479

Prepared by:
Tribal Environmental Office
Bureau of Natural Resources
Warm Springs, Oregon 97761

For:
THE WATER CONTROL BOARD
Confederated Tribes of Warm Springs Reservation of Oregon

FEBRUARY 25, 2021

Clean Water Act §401 Certification

This is the Certification to the Environmental Protection Agency
Regarding the NPDES PERMIT for
**The Warm Springs Wastewater Treatment Plant, on Shitike Creek, Tributary
to the Deschutes River, Oregon**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et seq.*, as amended by the Water Quality Act of 1987, P.L. 100-4, the “Act”, EPA is requesting a Certification for the Wastewater Treatment Plant request to discharge at the following locations:

Outfall	Receiving Water	Latitude	Longitude
001	Shitike Creek	44.761912 North	121.257757 West

in accordance with discharge points, effluence limitations, monitoring requirements and other conditions set forth in their Final NPDES Permit.

Based on the application and agency comments and other information submitted to the Confederated Tribes of the Warm Springs Reservation (“Tribe” or “CTSWS”) Water Control Board (“WCB”), and pursuant to §401 of the Clean Water Act and Tribal Ordinances 45, 74, 80 and 81, the WCB is willing to conditionally approve the application for certification. The WCB has determined that compliance with the certification conditions contained herein will maintain the facility consistent with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, Tribal water quality standards, and other appropriate requirements of Tribal law related to point source discharge into waters of the United States.

In accordance with Tribal Ordinance 81 and Warm Springs Tribal Code Chapter 433, the Permittee, if dissatisfied with the conditions of this certification, may request a hearing before the WCB or a hearings officer designated by the WCB. Such request for a hearing must be made in writing to the Chairman of the Water Control Board within 20 days of the date of mailing of this certification. Any hearing will be conducted pursuant to the rules of the Tribal Council.

This certification is valid for the Permittee only and is not transferable without prior approval of the Tribal Council or its designated representative, in accordance with Ordinance 81, 433.070(7).

Certification Conditions

The Tribal Water Code states *“Ownership of water carries the responsibility to maintain water quality so that after use it is essentially as good as before use. In addition, the water resource must be preserved and quality maintained for future generations who live and make use of the reservation and its resources. The Primary objective in regards to water quality is to maintain excellent quality and purity of all waters that are on, cross the reservation, or are on reservation borders.*

These standards of purity will protect and conserve public health, recreational enjoyment of people, economic and industrial development of the reservation, protection of human life and property, and conservation of plant, aquatic, and animal life.”

I. Limitations and Monitoring Requirements

Tribal Ordinance 80 established specific water quality standards for reservation waters.

Upon EPA’s issuance of a new NPDES Permit for the Wastewater Treatment Plant, the Permittee shall comply with the following provisions related to water quality standards and other appropriate requirements of Tribal law:

A. Discharge Authorization

During the effective period of the permit, the Permittee is authorized to discharge pollutants from the outfalls specified herein to Shitike Creek, within the limits and subject to the conditions set forth in the EPA issued NPDES Permit No. OR0032638. The permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams and operations that have been clearly identified in the permit application process.

B. Effluent Limitations and Monitoring

1. The Permittee must limit and monitor discharges from outfall 001 as specified in Table 1. All figures represent maximum effluent limits unless otherwise indicated. The Permittee must comply with the effluent limits in the tables at all times unless otherwise indicated, regardless of the frequency of monitoring or reporting required by other provisions of the permit.

Table 1. Effluent Limitations and Monitoring Requirements

Parameter	Units	Effluent Limitations			Monitoring Requirements			
		Average Monthly	Average Weekly	Maximum Daily	Sample Location	Sample Frequency	Sample Type	
Parameters with Effluent Limits								
Biochemical Oxygen Demand (BOD ₅) April 1 – October 31	mg/L	10	15	--	Influent and Effluent	1/week	24-hour composite	
	lbs/ day	73	109	--			Calculation ¹	
Biochemical Oxygen Demand(BOD ₅) November 1 – March 31	mg/L	30	45	--	Influent and Effluent	1/week	24-hour composite	
	lbs/day	218	327	--			Calculation ¹	
Biochemical Oxygen Demand (BOD ₅) Percent Removal	%	85% (minimum)	--	--	--	1/month	Calculation ²	
Total Suspended Solids (TSS) April 1 – October 31	mg/L	10	15	--	Influent and Effluent	1/week	24-hour composite	
	lbs/day	73	109	--			Calculation ¹	
Total Suspended Solids (TSS) November 1 – March 31	mg/L	30	45	--	Influent and Effluent	1/week	24-hour composite	
	lbs/day	218	327	--			Calculation ¹	
TSS Percent Removal	%	85% (minimum)	--	--	--	1/month	Calculation ²	
<i>E. coli</i> ³	CFU/100ml	126	--	406 (instant max) ⁴	Effluent	5/month	Grab	
Total Ammonia (as N) (Interim Compliance Schedule)	mg/L	2.4	--	6.8 ⁴	Effluent	1/week	24-hour composite	
	lbs/day	17.4	--	49.3			Calculation ¹	
Total Ammonia (as N) ⁶	mg/L	1.4	--	3.8 ⁴	Effluent	1/week	24-hour composite	
	lbs/day	10.2	--	27.6			Calculation ¹	
pH	std units	Between 6.5 and 8.5			Effluent	1/week ⁵	Grab	
Report Parameters								
Temperature	°C	--	--	Report	Effluent	1/week	Grab	
Flow	mgd	Report	--	Report	Effluent	1/month	Grab	
Floating, Suspended, or Submerged Matter	--	See Paragraph I.B.2					1/month	Visual Observation
<u>Notes</u>								
<p>1. Loading (in lbs/day) is calculated by multiplying the concentration (in mg/L) by the corresponding flow (in mgd) for the day of sampling and a conversion factor of 8.34. For more information on calculating, averaging, and reporting loads and concentrations see the <i>NPDES Self-Monitoring User Guide</i> (EPA 833-B-85-100, March 1985).</p> <p>2. Percent Removal. The monthly average percent removal must be calculated from the arithmetic mean of the influent values and the arithmetic mean of the effluent values for that month using the following equation:</p> <p style="padding-left: 40px;">(average monthly influent concentration – average monthly effluent concentration) ÷ average monthly influent concentration x 100. Influent and effluent samples must be taken over approximately the same time period.</p> <p>3. The average monthly <i>E. Coli</i> bacteria counts must not exceed a geometric mean of 126/100 ml based on the minimum of five samples taken every 3 – 7 days within a calendar month. See Part IV of this certification for a definition of geometric mean.</p> <p>4. Reporting is required within 24 hours of a maximum daily limit or instantaneous maximum limit violation. See</p>								

Paragraphs I.B.3 and Part III G of this certification.

5. Samples must be taken on different days.
6. Total Ammonia (as N) concentration and mass limits are effective on **DATE**. This date is at the end of a 5-year Compliance Schedule. See Part II. C for more information. Until final concentrations and mass limits are effective on **date**, an interim limit has been established. The interim limit is effective the first day of permit issuance.

2. Narrative limitations for floating, suspended or submerged matter:
 - a) The permittee must not discharge floating, suspended, or submerged matter of any kind in concentrations causing nuisance or objectionable conditions or that may impair designated beneficial uses.
 - b) The permittee must observe the surface of the receiving water in the vicinity of where the effluent enters the surface water. The permittee must maintain a written log of the observation which includes the date, time, observer, and whether there is presence of floating, suspended or submerged matter. The log must be retained and made available to EPA and the WCB upon request.
3. Temperature data must be recorded using a micro-recording temperature device known as a thermistor. Set the recording device to record at one-hour intervals. Report the following temperature data on the DMR: monthly instantaneous maximum, maximum daily average, seven-day running average of the daily instantaneous maximum.
4. Use the temperature device manufacturer's software to generate (export) an Excel or electronic ASCII text file. The file must be submitted annually to the EPA by January 31 for the previous monitoring year along with the placement log. The placement logs should include the following information for both thermistor deployment and retrieval: date, time, temperature device manufacturer ID, location, depth, whether it measured air or water temperature, and any other details that may explain data anomalies. The permittee must report within 24 hours any violation of the maximum daily limits for the following pollutants: ammonia and *E. coli*. Violations of all other effluent limits are to be reported at the time that discharge monitoring reports are submitted (See Parts III.B. *Reporting of Monitoring Results* and III.G. *Twenty-four Hour Notice of Noncompliance Reporting* of this permit).
5. The permittee must not use chlorine for disinfection or elsewhere in the treatment process.
6. The permittee must collect samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.

7. For all effluent monitoring, the permittee must use sufficiently sensitive analytical methods which meet the following:
 - a) Parameters with an effluent limit. The method must achieve a minimum level (ML) less than the effluent limitation unless otherwise specified in *Table 1 Effluent Limitations and Monitoring Requirements*.
 - b) Parameters that do not have effluent limitations.
 - (i) The permittee must use a method that detects and quantifies the level of the pollutant, or
 - (ii) The permittee must use a method that can achieve a maximum ML less than or equal to those specified in Appendix A.
 - c) For parameters that do not have an effluent limit, the permittee may request different MLs. The request must be in writing and must be approved by EPA.
 - d) See also Part III.C *Monitoring Procedures*
8. For the purposes of reporting on the DMR for a single sample, if a value is less than the MDL, the permittee must report “less than {numeric value of MDL}” and if a value is less than the ML, the permittee must report “less than {numeric value of the ML}.”
9. For purposes of calculating monthly averages, zero may be assigned for values less than the MDL, and the {numeric value of the MDL} may be assigned for values between the MDL and the ML. If the average value is less than the MDL, the permittee must report “less than {numeric value of the MDL}” and if the average value is less than the ML, the permittee must report “less than {numeric value of the ML}.” If a value is equal to or greater than the ML, the permittee must report and use the actual value. The resulting average value must be compared to the compliance level, the ML, in assessing compliance.

C. Surface Water Monitoring Report (SWMRP)

The permittee must conduct surface water monitoring. Surface water monitoring must start 180 days after the effective date of the permit and continue for as long as the permit remains in effect. The program must meet the following requirements.:

1. Monitoring stations must be established in Shikite Creek at the following locations:
 - a. Above the influence of the facility’s discharge at a point representative of stream water quality
 - b. Below the facility’s discharge, at a point where the effluent and Shitike Creek are completely mixed. Upstream and downstream sampling of all parameters in Table 2 must occur on the same day and as close to the same time as practicable.
2. To the extent practicable, surface water sample collection must occur on the same date as effluent sample collection.
3. The flow rate must be measured as near as practicable to the time that other ambient parameters are sampled.
4. Samples must be analyzed for parameters listed in Table 2. Ambient Surface Water Monitoring Requirements.
5. For all surface water monitoring, the permittee must use sufficiently sensitive analytical methods which meet the following:
 - a. The method must detect and quantify the level of pollutant, or
 - b. The permittee must use a method that can achieve MLs less than or equal to those specified in Appendix A. The permittee may request different MLs. The request must be in writing and approved by the EPA and WCB.

Table 2. Ambient Surface Water Monitoring Requirements

Parameter	Units	Frequency	Sample Type
Flow	cfs	Monthly	Grab
Total Ammonia as N	mg/L	Monthly	Grab
Temperature	C	Monthly	Grab
pH	standard units	Monthly	Grab

6. Quality assurance/quality control (QA/QC) plans for all the monitoring must be documented in the Quality Assurance Plan required under Part II.B.

7. Submission of Ambient Surface Water Monitoring
 - a. Ambient surface water monitoring results must be reported on the monthly DMR.

II. Special Conditions

A. Operations and Maintenance Plan

In addition to the requirements specified in Part IV.E, *Proper Operation and Maintenance*, the permittee must develop and implement an Operations and Maintenance (O&M) Plan for the wastewater treatment facility. Any existing O&M Plan may be modified for compliance with this section. Any changes occurring in the operation of the plant must be reflected within the O&M Plan.

Within 180 days of the effective date of the permit, the permittee must submit written notice to EPA and the WCB at the O&M Plan has been developed and implemented.

The permittee may submit the written notification as an electronic attachment to the DMR. The file name of the electronic attachment must be as follows: YYYY_MM_DD_OR0032638_O&M_50108, where YYYY_MM_DD is the date that the permittee submits the written notification.

B. Quality Assurance (QA) Plan

1. Within 180 days of the effective date of NPDES Permit No. OR0032638, the Permittee must submit written notice to the EPA and the Confederated Tribes of Warm Springs WCB that the QA Plan has been developed and implemented. The plan must be retained on site and made available to the EPA and/or the WCB upon request. Any existing QA Plans may be modified to meet this requirement.
2. Throughout all sample collection and analysis activities, the permittee must use the EPA-approved QA/QC and chain-of-custody procedures described in *EPA Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA-QA-G-5). The QAP must be prepared in the format that is specified in these documents.
3. At a minimum, the QA Plan must include the following:
 - a. Details on the number of samples, type of sample containers, preservation of samples, holding times, analytical methods, analytical detection and quantification limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.

- b. Maps indicating the location of each sampling point.
 - c. Qualification and training of personnel.
 - d. Name, address, and telephone number of the laboratory used by or proposed to be used by the permittee.
4. The Permittee must amend the QA plan whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QA plan.
 5. Copies of the QA plan must be kept on site and made available to the EPA and/or the WCB upon request.

C. Ammonia Schedule of Compliance

1. The permittee must achieve compliance with the ammonia limitations of Part I.B, Table 1. (Effluent Limitations and Monitoring Requirements), by **insert data**.
2. Until compliance with the effluent limits is achieved, at a minimum, the permittee must complete the tasks and reports listed in Table 3.

Table 3. Tasks Requires Under the Schedule of Compliance for Ammonia

Task No.	Due By	Task Activity
1	12 months from the effective date of the permit.	<p>Facility Planning The permittee must develop a facility plan that evaluates alternatives to meet the final effluent limitations for ammonia* and select a preferred alternative. The facility plan will include a cost estimate for design and construction of the preferred alternative.</p> <p>Deliverable: The permittee must submit the completed facility plan to EPA and the WCB.</p>
2	18 months from the effective date of the permit	<p>Facility Funding The permittee must acquire the funds necessary to complete all the facility upgrades/changes in facility operations outlined in the facility plan required to meet the final effluent limitations for ammonia by the end of this compliance schedule.</p> <p>Deliverable: The permittee must submit written notice to the EPA and the WCB that the facility funding has been acquired.</p>
3	30 months for the effective date of the permit.	<p>Final Design The permittee must complete design of the selected alternative for meeting the final ammonia effluent limitations.</p> <p>Deliverable: The permittee must submit written notice to the EPA and the WCB that the final design is complete</p>
Task No.	Due By	Task Activity
4	36 months for the	<p>Award Bid for Construction Deliverable: The permittee must provide written notice to the EPA and the WCB</p>

	effective date of the permit.	that the bid award is complete
5	48 months for the effective date of the permit.	<p>Construction Complete The permittee must complete construction to achieve the ammonia effluent limitations.</p> <p>Deliverable: The permittee must submit a construction completion report to the EPA and the WCB.</p>
6	60 months for the effective date of the permit.	<p>Meet Effluent Limitations for Ammonia Training and optimization of process such that compliance with the ammonia effluent limitations are achieved.</p> <p>Deliverable: The permittee must provide written notice to the EPA and the WCB that the effluent limitations are achieved.</p>
<p>*Note – if compliance with the final ammonia effluent limits is achieved sooner than the listed deadlines, the permittee may submit the supporting documentation earlier than the dates listed above. The permittee must provide written notice to EPA and the WCB that the ammonia limitations are achieved.</p>		

3. The permittee must submit an Annual Report of Progress which outlines the progress made towards reaching the compliance date for the ammonia effluent limitations. At a minimum, the annual report must include:
 - a. An assessment of the previous year of ammonia data and comparison to the effluent limitations.
 - b. A report on progress made towards meeting the effluent limitations, including the applicable deliverable required in Table 3, as well as further actions and milestones targeted for the upcoming year.
4. The annual Report of Progress must be submitted by **insert date one year after effective date of permit** of each year. The first report is due **insert date one year after effective date of permit** and annually thereafter, until compliance with the ammonia effluent limits is achieved. See also Part III.K, *Compliance Schedules*.

D. Facility Planning Requirement

1. Design Criteria: The maximum design flows and waste loads for the permitted facility are:

Table 4. Facility Design Criteria

Facility Design Criteria	Value	Units
Maximum Monthly Flow	0.87	mgd
Maximum Monthly Influent BOD ₅ Loading	218	lbs/day
Maximum Monthly Influent TSS Loading	218	lbs/day
Notes:		
Maximum monthly flow means the largest volume of flow anticipated to occur during a continuous 30-day period, expresses as a daily average.		
Maximum monthly loading means the largest loading anticipated to occur during a continuous 30-day period, expressed as a daily average (for BOD ₅ or TSS).		

2. Plan for maintaining adequate capacity
 - a. Condition to trigger plan development
 - i. Each month, the permittee must record the average daily flow, BOD₅ loading, and TSS loading entering the facility for that month.
 - ii. When the actual flow for any two months during a 12-month period exceed the facility planning values listed in Table 5, the permittee must develop a new or updated plan and schedule for continuing to maintain capacity and maintain compliance with effluent limits.
 - b. Submittal. The plan must be submitted to the EPA and the WCB within 18 months of exceeding the trigger.
 - c. Plan and schedule content. The plan and schedule must identify the actions necessary to maintain adequate capacity and to meet the limits and requirements of the permit. The permittee must consider the following topics and actions in the plan:
 - i. Analysis of the present design and proposed process modifications.
 - ii. Reduction or elimination of excessive infiltration and inflow of uncontaminated ground and surface water into the sewer system.
 - iii. Limits on future sewer extensions or connections or additional waste loads.
 - iv. Modifications or expansion of facilities
 - v. Reduction of industrial or commercial flows or waste loads.

E. Industrial Waste Management

1. The permittee must not authorize the introduction of pollutants that would inhibit, interfere, or otherwise be incompatible with operation of

the treatment works including interference with the use or disposal of municipal sludge.

2. The permittee must not authorize, under any circumstances, the introduction of the following pollutants to the POTW from any sources of nondomestic discharge:
 - a. Any pollutant which may cause Pass Through or Interference;
 - b. Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 60° C (140° F) using the test methods specified in 40 CFR 261.12;
 - c. Pollutants which will cause corrosive structural damage to the POTW, but in no case indirect discharges with a pH of lower than 5.0 s.u., unless the treatment facilities are specifically designed to accommodate such indirect discharges;
 - d. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTX, or other interference with the operation of the POTW;
 - e. Any pollutant, including oxygen demanding pollutants (e.g. BOD₅), released in an indirect discharge at a flow rate and/or pollutant concentration which will cause Interference with any treatment process at the POTW;
 - f. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40° C (104° F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits;
 - g. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through at the POTW;
 - h. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - i. Any trucked or hauled pollutants, except at discharge points designated by the POTW;
 - j. Any specific pollutant which exceeds a local limitation established by the permittee in accordance with the requirement of 40 CFR 403.5© and (d).

3. The permittee must develop and maintain a master list of the industrial users introducing pollutants to the POTW. Industrial user means any source of indirect discharge for a non-domestic source. This list must identify:
 - a. Names and addresses of all industrial users;
 - b. Which industrial users are significant industrial users (SIUs)(See Paragraph 5 of this Part);

- c. Which SIUs are subject to categorical pretreatment standards (see 40 CFR 405-471);
 - d. Which standards are applicable to each industrial user (if any);
 - e. Which industrial users are subject to local standards that are more stringent than the categorical pretreatment standards; and
 - f. Which industrial users are subject only to local requirements.
4. The permittee must submit this list, along with a summary description of the sources and information gathering methods used to develop this list, to EPA and the WCB within two years following the effective date of the NPDES permit.
 5. For the purposed of this list development, the term IU means:
 - a. All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and
 - b. Any other industrial use that:
 - i. Discharges an overage of 25,000 gallons per day or more of process wastewater to the POTW(excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - ii. Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - iii. Is designated as such by EPA, WCB, or the permittee on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violation of any Pretreatment Standard or requirement in accordance with 40 CFR 403.8(f)(6).

F. Emergency Response and Public Notification Plan

1. The permittee must develop and implement an overflow emergency response and public notification plan that identifies measures to protect public health from overflows that may endanger health and unanticipated bypasses or upsets that exceed any effluent limitation in the permit. At a minimum the plan must include mechanisms to:
 - a. Ensure that the permittee is aware (to the greatest extent possible) of all overflows from portions of the collection system over which the permittee has ownership or operational control and unanticipated bypass or upset that exceed any effluent limitation in the permit;
 - b. Ensure appropriate responses including assurance that reports of an overflow or of an unanticipated bypass or upset that exceed any effluent limitation in the permit are immediately dispatched to appropriate personnel for investigation and response;
 - c. Ensure immediate notification to the public, health agencies, and other affected public entities (including public water systems). The overflow response plan must identify the public health and other officials who will receive immediate notification;

- d. Ensure that appropriate personnel are aware of and follow the plan and are appropriately trained; and
 - e. Proved emergency operations.
2. The permittee must submit written notice to EPA and the WCB that the plan has been developed and implemented within 180 days of the effective date of the permit. Any existing emergency response and public notification plan may be modified for compliance with this section.
 3. The permittee may submit the written notification as an electronic attachment to the TEO and WCB.

III. Monitoring, Recording, and Reporting Requirements

A. Representative Sampling (Routine and Non-Routine Discharges)

Samples and measurements must be representative of the volume and nature of the monitored discharge.

In order to ensure that the effluent limits set forth in the permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters limited in Part I.B. of the permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with Part III.C ("Monitoring Procedures"). The permittee must report all additional monitoring in accordance with paragraph III.D ("Additional Monitoring by Permittee").

B. Reporting of Monitoring Results

1. The Permittee must submit monitoring data and other reports to the WCB and TEO.
2. Permittee must submit copies of the DMR and other reports to the Confederated Tribes of Oregon WCB and TEO no later than the 20th of the month following the completed reporting period at the following addresses.

The Confederated Tribes of Warm Springs Reservation of Oregon
Water Control Board
PO Box C
Warm Springs, Oregon, 97761

The Confederated Tribes of Warm Springs Reservation of Oregon
Tribal Environmental Office

PO Box C
Warm Springs, Oregon 97761

3. The Permittee must sign and certify all DMRs, and other reports.

C. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless another method is required under 40 CFR subchapters N or O, or other test procedures have been specified in the permit or approved by EPA as an alternate test procedure under 40 CFR 136.5.

D. Additional Monitoring by Permittee

If the Permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR 136 or as specified in the permit, the Permittee must include the results of this monitoring in the calculation and reporting of the data submitted in the DMR.

Upon request by the WCB, the Permittee must submit results of any other sampling, regardless of the test method used.

E. Records Contents

Records of monitoring information must include:

1. the date, exact place, and time of sampling or measurements;
2. the name(s) of individual(s) who performed the sampling or measurements;
3. the date(s) analyses were performed;
4. the names of the individual(s) who performed the analyses;
5. the analytical techniques of methods used; and
6. the results of such analyses.

F. Retention of Records

The Permittee must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of DMRs, a copy of the permit, and records of all data used to complete the application for the permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the EPA or the WCB at any time.

G. Twenty-four Hour Notice of Noncompliance Reporting

1. The Permittee must report the following occurrences of noncompliance by telephone within 24 hours from the time the Permittee becomes aware of the circumstances:
 - a. Any noncompliance that may endanger health or the environment;

- b. Any unanticipated bypass that exceeds any effluent limitation in the permit (See Part IV.F of NPDES Permit No. OR0032638, *Bypass of Treatment Facilities*);
 - c. Any upset that exceeds any effluent limitation in the permit (See Part IV.G of NPDES Permit No. OR0032638, *Upset Conditions*); or
 - d. Any violation of a maximum daily discharge limitation for applicable pollutants identified by Table 1 of this certification (*Effluent Limitations and Monitoring Requirements*).
 - e. Any overflow prior to the treatment works over which the permittee has ownership or has operational control. An overflow is a spill, release, or diversion of municipal sewage including:
 - i. An overflow that results in a discharge to tribal waters; and
 - ii. An overflow of wastewater, including a wastewater backup into a building (other than a backup caused solely by a blockage or other malfunction in a privately-owned sewer or building lateral) that does not reach tribal waters.
2. The permittee must also provide a written submission within five days of the time that the permittee becomes aware of any event required to be reported under subpart 1 above. The written submission 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 recurrence of the noncompliance.
 - e. If the noncompliance involves an overflow, the written submission must contain:
 - i. The location of the overflow;
 - ii. The receiving water (if there is one);
 - iii. An estimate of the volume of the overflow;
 - iv. A description of the sewer system component from which the release occurred (e.g., manhole, constructed overflow pipe, crack in pipe);
 - v. The estimated date and time when the overflow began and stopped or will be stopped;
 - vi. The cause or suspected cause of the overflow
 - vii. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the overflow and a schedule of major milestones for those steps;
 - viii. An estimate of the number of persons who came into contact with the wastewater from the overflow; and
 - ix. Steps taken or planned to mitigate the impact(s) of the overflow and a schedule of major milestones for those steps.

3. The Director of the Office of Compliance and Enforcement may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Hotline in Seattle, Washington, by telephone, (206) 553-1846.
4. Reports must be submitted in paper form to the addresses in Part III.B. ("Reporting of Monitoring Results").

H. Other Noncompliance Reporting

The Permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Part III.B ("Reporting of Monitoring Results") are submitted. The reports must contain the information listed in Part III.G.2 of the permit ("Twenty-four Hour Notice of Noncompliance Reporting").

I. Public Notification

The permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Part III.B of this certification, *Reporting of Monitoring Reports* are submitted. The reports must contain the information listed in Paragraph III.G.2 of this certification.

J. Notice of New Introduction of Toxic Pollutants

The permittee must notify the Director of the Office of Water and Watersheds and the Confederated Tribes of the Warm Springs Water Control Board in writing of:

1. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to Sections 301 and 306 of the Act if it were directly discharging those pollutants; and
2. Any substantial change in the volume or character of pollutants being introduced in the POTW by a source introducing pollutants into the POTW at the time of issuance of the certification.
3. For the purposes of this section, adequate notice must include information on:
 - a. The quality and quantity of effluent to be introduced into the POTW, and
 - b. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
4. The Permittee must submit the notification to the Director of the Water Division and the Tribal Environmental Office at the following addresses:

US EPA Region 10
Attn: NPDES Permits Unit Manager
1200 Sixth Avenue
Suite 155 OWW-191
Seattle, Washington 98101-3140

The Confederated Tribes of Warm Springs Reservation of
Oregon
Tribal Environmental Office
PO Box C
Warm Springs, Oregon 97761

K. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this certificate must be submitted no later than 14 days following each schedule date.

IV. General Provisions

A. Permit Actions

This certification may be modified, revoked, and reissued for cause as specified in 40 CFR 122.62, 122.64, or 124.5. This filing of a request by the permittee for a certification modification, revocation, and reissuance, termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

B. Duty to Reapply

If the permittee intends to continue an activity regulated by this certification after the expiration date of this certification, the permittee must apply for and obtain a new certification. In accordance with 40 CFR 122.21(d), and unless permission for the application to be submitted at a later date has been granted by the WCB, the permittee must submit a new application at least 180 days before the expiration date of this certification.

C. Duty to Provide Information

The permittee must furnish to the Tribe WCB or TEO, within the time specified in the request, any information that the Tribe WCB or TEO may request to determine compliance with this certificate. The permittee must also furnish to the Tribe, upon request, copies of records required to be kept by this certificate.

D. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit

application or any report to the EPA or the WCB, it must promptly submit the omitted facts or corrected information in writing.

E. Signatory Requirements

All applications, reports or information submitted to the EPA and the Confederated Tribes of Warm Springs WCB must be signed and certified as follows.

1. All permit applications must be signed by a principal executive officer or ranking elected official.
2. All reports required by the certification and other information requested by the EPA or the WCB must be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company; and
 - c. The written authorization is submitted to the Director of the Enforcement and Compliance Assurance Division and the Confederated Tribes of Warm Springs WCB.
3. Changes to authorization. If an authorization under paragraph 2 of this part is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph 2 of this part must be submitted to the Director of Enforcement and Compliance Assurance Division and the Confederated Tribes of Warm Springs WCB prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this part must make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

F. Availability of Reports

In accordance with 40 CFR Part 2, information submitted to EPA or the WCB pursuant to this certification may be claimed as confidential by the permittee. In accordance with the Act, permit applications, permits and effluent data are not considered confidential. Any confidentiality claim must be asserted at the time of submission by stamping the words “Confidential business information” on each page containing such information. If no claim is made at the time of submission, EPA or the WCB may make information available to the public without further notice to the permittee. If a claim is asserted, the information will be treated in accordance with the procedure in 40 CFR 2, Subpart B (Public Information) and 41 Fed. Reg. 36902 through 36924 (September 1, 1976), as amended.

G. Inspection and Entry

The Permittee must allow the authorized representatives of the WCB and TEO (including an authorized contractor acting as a representative), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the certificate;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the certificate;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the certificate; and
4. Sample or monitor at reasonable times, for the purpose of assuring certificate compliance or as otherwise authorized by the Act, any substances or parameters at any location.

H. Property Rights

The issuance of the certificate does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, nor any infringement of federal, tribal, state or local laws or regulations.

I. Transfers

This certification is not transferable to any person except after written notice to the Director of the Water Division or the Confederated Tribes of Warm Springs WCB as specified in Part III.J.4. The Director or the tribes may require modification or revocation and reissuance of the certification to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (*See* 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory).

J. Tribal Laws

Nothing in the permit or certificate shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Tribal law or regulation under authority preserved by Section 510 of the Act.

The Tribal Council of the Confederated Tribes of Warm Springs has delegated the responsibility and accountability to implement the Policy Statements listed in Tribal Ordinance 80 and 81 to the Water Control Board. Therefore the WCB will be responsible for all decisions requiring the exercise of delegated authority from the Federal Environmental Protection Agency under the Federal Clean Water Act and for implementing Tribal Ordinances 45, 80 and 81.

V. Antidegradation Policy

With the implementation of the mitigation measures listed above, the WCB believes that overall water quality in and below the Project will be protected. Accordingly, the WCB believes that there is a reasonable assurance that plant operations, coupled with the mitigation measures listed above, will comply with the Tribal antidegradation policies. The WCB will require implementation of all monitoring and reporting to ensure compliance with the antidegradation policy.

VI. §401 Certification Modification

Subject to the provisions of Ordinance 80 and 81, the WCB may reconsider and add or alter conditions to the Certification as necessary to address changes in conditions or knowledge or to address any failure of conditions herein to protect water quality and beneficial uses. In accordance with the Clean Water Act Section 401, any added or altered condition shall, so long as it is in effect, become a condition of any federal license or permit that is thereafter issued for the Project. Ordinance 81 provides a mechanism for appropriate changes to the conditions established in this Certificate. With respect to an existing federal license or permit for the Project, the WCB may petition the federal agency to incorporate the added or altered condition in the federal license or permit.

VII. Project Changes, Repairs and Maintenance

- A. The Permittee must obtain the WCB review and approval before undertaking any change to the facility that might significantly affect water quality, including changes to operations and effluent flows.
- B. The Permittee must obtain the WCB review and approval before undertaking repair or maintenance activities that might significantly affect water quality. The WCB may, at the Permittee's request, provide prior approval of such repair and maintenance activities on a periodic or ongoing basis.
- C. The Permittee will notify the TCB and TEO of all future changes in the facility or operation of the project

The request must be in writing and must be approved by the WCB. If the permittee is unable to obtain the required ML in its effluent due to matrix effects, the permittee must submit a matrix-specific detection limit (MDL) and a ML to the WCB with appropriate laboratory documentation.

CONVENTAION PARAMETERS

Pollutant & CAS No. (if available)	Minimum Level (ML) µg/L unless specified
Biochemical oxygen demand	2 mg/L
pH	N/A
Temperature	+/- 0.2°C
Total ammonia (as N) (7664-41-7)	50
Total suspended solids	5 mg/L