AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

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

Carlota Copper Company
8101 E. Prentice Avenue, Suite 800
Englewood, CO 80111

is authorized to operate the Carlota Copper Project located near the town of Miami in Gila and Pinal Counties and to discharge storm water from Outfalls No. 001 through No. 008 as described below:

Outfall Serial No.	Description of Discharge	Latitude	Longitude
001	From retention basin below Main Dump to Powers Gulch	111 0' 7" S	33 23' 43" W
002	From retention basin below Main Dump to Powers Gulch	111 0' 7" S	33 23' 36" W
003	From retention basin below Main Dump to Powers Gulch	111 0' 7" S	33 23' 25" W
004	From retention basin below Main Dump to Powers Gulch	110 59' 9" S	33 23' 27" W
005	From retention basin below Main Dump to Pinto Creek	110 59' 16" S	33 22' 39" W
006	From retention basin below SW from Eder Dump to Powers Gulch	110 59' 43" S	33 22' 20" W
007	From retention basin below Eder Dump to Powers Gulch	110 59' 36"	33 22' 18"
008	From Carlta Wellfield to Pinto Creek, and Haunted Canyon Creek	In accordance with Arizona Department of Water Resources Permit No. 33-96423.00000: points of discharge located in Section 23, 26, 27, 34 & 35, Township 1 North, Range 13 E, GSRB&M	

In accordance with effluent limitations, monitoring requirements and other conditions set forth in Part I, II, III and IV hereof.

This permit shall become effective on:_____

This permit and the authorization to discharge shall expire at midnight, _____

Signed this _____ day of _____

For the Regional Administrator

_____ _____

Laura L. Gentile, Permit Writer Alexis Strauss, Director, Water Division

Part I

A. DISCHARGE REQUIREMENTS AND CONDITIONS. The Carlota Copper Company ("Permittee") is authorized to discharge, as described below:

1. Prior to discharging into Pinto Creek, Permittee must perform reclamation work which will result in a reduction in copper loadings into Pinto Creek from upstream sources equal to or greater than the projected copper loadings expected through discharges.

   a. The reclamation activities proposed by the Permittee in a letter to EPA dated November 29, 1999, have been approved by EPA as sufficient to meet the permit requirement described in Part I.A.1 of this permit. These activities are described in Part I.A.11.a (Special Conditions) of this permit.

   b. At least 60 days prior to beginning reclamation activities, the Permittee must submit a detailed workplan to EPA and ADEQ outlining the reclamation work which will be completed. The workplan must be approved by EPA prior to commencement of activities.

   c. Until the reclamation activities described in Part I.A.11.a of this permit have been completed, discharges into Pinto Creek containing detectable concentrations of copper are prohibited.

2. The requirements applicable to all discharges to Pinto Creek are described below:

   a. The Permittee is only allowed to discharge waste rock runoff from retention ponds during storm events (multiple or single events), over a 30-day period, which produces the amount of rainfall exceeding that which would occur during the 100-year, 24-hour storm event, as defined in Part I.E.8. of this permit.

   b. For the purposes of this permit and to determine compliance with the requirements of Part I.A.2.a, the gauge station nearest the site (e.g., Miami, AZ), operated by the National Weather Service, shall be used to monitor rainfall. The permittee may establish a gauge station at the facility, in which case rainfall shall be recorded on a daily basis. In this case, a National Weather Service Standard Rain Gauge shall be used.

   c. Samples taken in compliance with the monitoring requirements specified in this section shall be taken at the outfall locations specified on page 1 of this permit and illustrated in Figure 1 of this permit. The sampling locations will be in the retention pond (outfall 005) or the end of pipe (outfall 008).

   d. Discharges are allowed:

(i) as a result of runoff from retention ponds located below the toes of the waste rock dumps. Discharges are allowed only through a "Morning Glory" type outlet (i.e., a screened vertical pipe inside the retention pond), if the depth of storm water within the pond exceeds the top level of the outlet pipe; or

(ii) to implement various elements of the USFS approved wellfield mitigation program per Section A.11.b.

e. All discharges into Pinto Creek are prohibited from exceeding the applicable numeric water quality criteria for dissolved copper, which is a calculated value that will vary based on hardness concentration.

(i) The Permittee will be required to calculate the applicable criteria during each discharge event using the hardness concentration measurement corresponding to the discharge event. For hardness concentration results exceeding 400 mg/l, the maximum value of 400 mg/l shall be used in the calculation (A.A.C. R18-11-Appendix A). Therefore, for discharge events where hardness is equal to or greater than 400 mg/l, the applicable numeric criteria shall be 65.4 g/l.

(ii) Copper criteria and discharge concentrations will be calculated during each discharge event using the following equation per A.A.C. R18-11-Appendix A:

$$e^{(0.8545[\ln(hardness(mg/l)]-1.465)}$$

f. Permittee is required to monitor during each discharge event, as defined in Part I.E.9 of this permit, as described below. The Permittee will collect and analyze discharge samples as follows:

(i) One composite sample, as defined in Part I.E. 3, must be collected within 30 minutes following the start of discharge. The composite sample must be composed of not less than three discrete samples, as defined in Part I.E.1 of this permit.

(ii) The composite sample will be analyzed for the parameters described in Table I. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136.

(iii) For all metals, sampling results will be reported in terms of both total recoverable and dissolved metals.

g. If analytical results for any of the metals listed in Table I are consistently reported as NODI(B), as described in Part I.B.1.b. of this permit, after twenty-four months following the first date of discharge, provided a minimum of nine (9) discharge events have occurred, monitoring frequencies may be reduced for that specific parameter to once per quarter.

3. The requirements applicable to discharges to Powers Gulch (Outfalls 001-004, 006-008) are described below:

a. Permittee is only allowed to discharge waste rock runoff from retention ponds during storm events (multiple or single events) exceeding the amount of rainfall resulting from the 10-year, 24-hour storm event, as defined in Part I.E.7 of this permit.

b. For the purposes of this permit and to determine compliance with the requirements of Part I.A.3.a, the gauge station nearest the site (e.g., Miami, AZ) operated by the National Weather Service, shall be used to monitor rainfall. The permittee may establish a gauge station at the facility, in which case rainfall shall be recorded on a daily basis. In this case, a National Weather Service Standard Rain Gauge shall be used.

c. Samples taken in compliance with the monitoring requirements specified in this permit shall be taken at the locations (001-004, 006-008) specified on page 1 of this permit and illustrated in Figure 1 (Attachment A of this permit). The sampling location will be in the retention pond (outfalls 001-004, 006,007) or the end of pipe (outfall 008).

d. Discharges are allowed:

(i) as a result of runoff from retention ponds located below the toes of the waste rock dumps. Discharges are allowed only through a "Morning Glory" type outlet (i.e., a screened vertical pipe inside the retention pond), if the depth of storm water within the pond exceeds the top level of the outlet pipe; or

(ii) to implement various elements of the USFS approved wellfield mitigation program per Section A.11.b.

e. During the first discharge event of a quarter (three-month period), as defined in Part I.E.9 of this permit, the Permittee will collect and analyze discharge samples, as described below:

(i) One composite sample, as defined in Part I.E. 3, must be collected within 30 minutes following the start of discharge. The composite sample must be composed of not less than three discrete samples, as defined in Part I.E.1 of this permit.

(ii) The composite sample will be analyzed for the parameters described in Table I. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136.

(iii) For all metals, sampling results will be reported in terms of both total recoverable and dissolved metals.

f. If analytical results for any of the metals listed in Table I are consistently reported as

NODI(B), as described in Part I.B.1.b. of this permit, after twenty-four months following the first date of discharge where at least six discharge events have occurred, monitoring frequencies may be reduced for that specific parameter to twice per year.

Table I. Discharge and Ambient Surface Water Monitoring Parameers	
Parameter	**Type of Sample**
Antimony (g/l)	Composite sample
Arsenic (g/l)	Composite sample
Barium (g/l)	Composite sample
Beryllium (g/l)	Composite sample
Boron (g/l)	Composite sample .
Cadmium (g/l)	Composite sample
Chromium (g/l)	Composite sample
Copper (g/l)	Composite sample
Lead (g/l)	Composite sample
Mercury (g/l)	Composite sample
Nickel (g/l)	Composite sample
Selenium (g/l)	Composite sample
Silver (g/l)	Composite sample
Zinc (g/l)	Composite sample
pH (s.u.)	Discrete sample

Table I. Discharge and Ambient Surface Water Monitoring Parameers	
Parameter	**Type of Sample**
Total Suspended Solids (mg/l)	Composite sample
Hardness (mg/l)[1]	Composite sample
Flow (gpm)	Composite sample

[1] Samples shall be analyzed for Total Hardness (CaCO3), in mg/l, using methods described in 40 CFR Part 136.

4. All permit conditions described in this permit, with the exception of 2 and 3 above, apply equally to all discharges allowed under this permit (Outfalls 001-008).

5. Acid Generation Testing of Waste Rock: ADEQ's Aquifer Protection Permit (APP) issued on January 21, 1997 (P-102640) requires the Permittee to test waste rock periodically for acid generation potential. Permittee is required to submit results of waste rock testing to EPA, concurrently with submittal to ADEQ, as described below:

   a. Waste Rock Characterization: Waste rock from mining activities shall be sampled and analyzed at a frequency of one sample per every one million tons of waste rock, as described in Carlota's APP (P-102640).

   b. If results of testing indicate the potential for occurrence, or actual existence, of acid generation, EPA will reopen this permit to impose additional permit conditions to protect numeric and narrative Arizona Water Quality Standards, which will include at a minimum the following additional requirements:

      (i) The Permittee will be required to develop special waste handling practices to prevent impacts to surface waters;

      (ii) The Permittee will be required to develop Best Management Practices to ensure that reactive materials would not escape to the environment prior to disposal;

      (iii) If necessary, Permittee may be required to incorporate appropriate amendments into waste rock disposal facilities, to provide excess neutralizing capacity.

   c. Notwithstanding expiration or revision of the APP, Carlota is required to submit to EPA the information required in Part I.A.6.a & b.

6. The discharge shall be free from pollutants in amounts or combinations that:

   a. Settle to form bottom deposits that inhibit or prohibit the habitation, growth or propagation of aquatic life or that impair recreational uses;

   b. Cause objectionable odor in the area in which the surface water is located;

   c. Cause off-taste or odor in drinking water;

   d. Cause off-flavor in aquatic organisms or waterfowl;

   e. Are toxic to humans, animals, plants or other organisms;

   f. Cause the growth of algae or aquatic plants that inhibit or prohibit the habitation, growth or propagation of other aquatic life or that impair recreational uses;

   g. Cause or contribute to a violation of an aquifer water quality standard prescribed in A.A.C. R18-11-405 or A.A.C. R18-11-406; or

   h. Change the color of the surface water from natural background levels of color.

7. Discharges (including discharges of seeps as defined in Part I.C.3 of this permit, and storm water discharges associated with industrial activity as defined in 40 CFR 122.26(b)(14)) shall not cause or contribute to an exceedance of Arizona's Water Quality Standards.

8. The discharge shall be free from oil, grease and other pollutants that float as debris, foam, or scum; or that cause a film or iridescent appearance on the surface of the water; or that cause a deposit on a shoreline, bank or aquatic vegetation.

9. The discharge shall not:

   a. Raise the natural ambient water temperature of the receiving water more than three (3) degrees Celsius;

   b. Cause the turbidity of the receiving water to exceed 50 nephelometric turbidity units;

   c. Lower the dissolved oxygen concentration of the receiving water to less than six (6) mg/l or 90% saturation, whichever is less; or

   d. Change the pH of the receiving water by greater than 0.5 standard units (s.u.).

10. Reopener - This permit may be modified in accordance with the requirements set forth at 40 CFR Parts 122 and 124, to include appropriate conditions or limits to address any of the following conditions:

a. newly available information, including monitoring results reported under this permit;

b. to implement any applicable EPA-approved new or amended State water quality standards, variances, or designated uses;

c. in the event that a Total Maximum Daily Load (TMDL) establishing a Waste Load Allocation for the discharges allowed under this permit is completed for Pinto Creek requiring more stringent limits than those included in the permit;

d. in the event that results of testing indicate the potential for occurrence, or actual existence, of acid generation, EPA will reopen this permit to impose additional permit conditions to protect numeric and narrative Arizona Water Quality Standards.

11. Special Conditions

a. Reclamation Work Required Prior to Discharging into Pinto Creek: As described in Parts I.A.1.a & b of this permit, the Permittee must perform reclamation work which will result in a reduction in copper loadings into Pinto Creek from upstream sources which are equal or greater than the projected copper loadings expected through permitted discharges. The reclamation activities required under this permit, as proposed by the Permittee in a letter to EPA dated November 29, 1999, are listed below:

i. Remove the "PLS pond," located at the toe of the leach area, from the Gibson mine.
ii. Remove the "Raffinate pond," located to the east of the leach area, from the Gibson mine.
iii. Relocate the leached material from the leach pad to an area immediately northeast of the shop and configure it to minimize drainage.
iv. Cover the newly removed leached material with non-mineralized local material.
v. Configure drainage so as to be diverted away from the new location of the leached material.

b. Wellfield Mitigation Program. The following conditions apply to discharges resulting from the operation of the Carlota Wellfield Mitigation Program (outfall 008):

i. All discharges shall be conducted in accordance with the Wellfield Mitigation Program approved by the U.S. Forest Service on July 27, 1997 and any amendments thereto.

ii. The Permittee will collect and analyze discrete samples, as defined in Part I.E.1, from the wellfield discharges and the receiving stream, on a quarterly basis, for the parameters listed in Table 1 of this permit. The location and number of such samples shall be in accordance with the approved Wellfield Mitigation Program and any amendments thereto.

iii. All sampling and analysis shall be conducted according to test procedures approved under 40 CFR Part 136 and Section B of this permit. For all metals, sampling results will be reported in terms of both total recoverable and dissolved metals.

iv. All discharges into Pinto Creek must meet the requirements set forth in Part I.A.2. All discharges into Powers Gulch and/or Haunted Canyon must meet the requirements set forth in Part I.A.3.

v. If a discharge sampling result exceeds Arizona's water quality standards for the receiving stream, as of the date of permit issuance, as set forth in A.A.C. R18-11-109, the permittee shall accelerate sampling and analysis under Part I.A.11.b.ii above to monthly for the parameters found in exceedance. If none of the next three monthly sample results exceed the applicable standards, the permittee may return to the quarterly testing frequency for that parameter. If any one of the next three monthly sample results exceeds the applicable standards, EPA may reopen the permit in accordance with Part I.A.10.a and impose numeric water quality limitations for those parameters exceeding standards.

vi. Reporting:

(1) All results from the wellfield monitoring shall be reported on the Discharge Monitoring Reports (DMRs) as required in Section B.1 of this permit.

(2) After a minimum of eight quarterly samples have been collected and analyzed from the wellfield and receiving water, the Permittee may prepare a report which:

• tabulates the wellfield and instream monitoring results including the method/laboratory detection limits and appropriate surface water quality standard; and

• provides an assessment of the impacts, if any, on the water quality in Pinto Creek.

• based on the assessment, the Permittee may recommend a reduction or elimination of continued wellfield monitoring on a parameter specific basis.

The report shall be sent to the following addresses:

U.S. EPA Region IX
CWA Standards and Permits Office WTR-5
75 Hawthorne Street
San Francisco, California 94105-3901
Telephone: (415) 744-1905

Arizona Department of Environmental Quality
Water Permits Section
Federal Permits Unit (M0401A)
3033 N. Central Avenue
Phoenix, Arizona 85012
Telephone: (602) 207-4620

vii. EPA and ADEQ will review the report and determine whether the permit should be reopened and modified to reduce or eliminate any of the Wellfield Mitigation Program monitoring requirements on a parameter specific basis.

12. Discharges from the covered project such as runoff of storm water from haul roads and ancillary areas of the facility are covered under this permit. These discharges must meet the conditions described in EPA's Multi-Sector General Permit for Storm Water Discharges from Industrial Facilities 60 Fed. Reg. 50804-51319 (September 29, 1995), which are incorporated by reference into this permit.

B. DISCHARGE MONITORING AND REPORTING REQUIREMENTS

1. Reporting of Monitoring Results

a. All effluent monitoring, sample preservation, and analyses shall be performed as described in the most recent edition of 40 CFR Part 136, unless otherwise specified in this permit. For effluent analyses of parameters where permit limits have been established, the Permittee shall utilize an approved test procedure with a Method Detection Limit (MDL) that is lower than the effluent limitations. If there is no routine laboratory test procedure with an MDL lower than the effluent limitations or criteria concentrations, or if the procedure with the lowest MDL results in a Practical Quantitation Level (PQL) in excess of the effluent limitations or criteria concentrations, then the Permittee shall utilize the approved test procedure with the lowest MDL. In cases where the PQL exceeds the effluent limitation, an analytical result at or below the PQL shall be deemed to constitute compliance with the effluent limitation. In accordance with 40 CFR 122.45(c) and subject to the limitations of, effluent analyses for metals shall measure "total recoverable metal."

b. For the purposes of reporting, the Permittee shall use the reporting threshold equivalent to the laboratory's Method Detection Limit (MDL). As such, the Permittee will request that the laboratory utilize a standard calibration where the lowest standard point is equal to or less than the concentration

of the Practical Quantitation Level (PQL), or in the absence of a PQL, the Minimum Level (ML). For analytical results between the laboratory's MDL and the PQL/ML, the Permittee shall report NODI (Q) on the Discharge Monitoring Report (DMR) form. Analytical results below the laboratory's MDL shall be reported as NODI(B). "NODI" refers to "No Discharge/No Data" for an individual parameter. (Refer to Instructions for Completing Preprinted DMR Forms (EPA 3320-1), revised 02/13/98).

c. Effluent sampling and analysis results obtained during the month shall be submitted on forms to be supplied by the Regional Administrator or an equivalent facsimile, to the extent that the information reported may be entered on the forms. The results of all effluent sampling and analysis required by this permit shall be submitted in such a format as to allow direct comparison with the limitations and requirements of the permit. Unless otherwise specified, discharge flows shall be reported in terms of the average flow over each monthly period and the maximum daily flow over that monthly period. If there is no discharge during the month, the reporting form shall be marked "No Discharge" and submitted in accordance with this section. Each monthly report is due on the 28th day of the following month, i.e., the January report is due by February 28. Duplicate signed copies of these, and all other reports required herein, shall be submitted to EPA and ADEQ at the following addresses:

U.S. EPA Region IX
NPDES/DMR, WTR-7
75 Hawthorne Street
San Francisco, California 94105-3901
Telephone: (415) 744-1905

Arizona Department of Environmental Quality
Water Quality Compliance Section
3033 N. Central Avenue
Phoenix, Arizona 85012
Telephone: (602) 207-4620

2. Reporting requirements [40 CFR 122.41(l)]

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

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).

(3) The alteration or addition results in a significant change in the Permittee's sludge use or

disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

b. Anticipated noncompliance - The Permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c. Transfers - This permit is not transferable to any person except after notice to the director. The Director may require modification or revocation and reissuance of the permit to change the name of the Permittee and incorporate such other requirements as may be necessary under the Clean Water Act (CWA). [(See 40 CFR 122.61 and 122.63(d)]; in some cases, modification or revocation and reissuance is mandatory.)

d. Monitoring reports - Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(1) Monitoring results must be reported on a Discharge Monitoring Report (DMR).

(2) If the Permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136, as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

(3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

e. Twenty-four hour reporting

(1) The Permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(2) The following shall be included as information which must be reported within 24 hours under this paragraph.

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR 122.41(g).)

(b) Any upset which exceeds any effluent limitation in the permit.

(c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See 40 CFR 122.44g).

(3) The Director may waive the written report on a case-by-case basis for reports under paragraph (f)(2) of this section if the oral report has been received within 24 hours.

f. Other noncompliance - The Permittee shall report all instances of noncompliance not reported under paragraphs (a), (d) and (e) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

g. Other information - Where the Permittee becomes aware that it failed to submit relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

3. Test Procedures - Monitoring must be conducted according to test procedures approved under 40 CFR Part 136.

4. Recording the results - Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used;

f. The MDL and PQL for each method used, and

g. The results of such analyses.

5. Records Retention

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to

complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application, except for records of monitoring information required by this permit related to the Permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503). This period may be extended by request of the Director at any time.

C. BEST MANAGEMENT PRACTICES

1. By one year from the effective date of this permit, Permittee shall submit to the Regional Administrator and to ADEQ a Best Management Practices (BMP) Plan for the Carlota operations, as follows:

   a. A detailed site map or maps including (1) the flow routing of all natural and constructed drainage channels including all bypass structures; (2) active and inactive mine process areas; (3) flow chart of mine processes; (4) storage impoundments; (5) pipelines and pumping stations including number and capacity of pumps; (6) locations of NPDES permitted discharge points; and (7) location of any identified seeps (as defined in Section I.C.3.a).

   b. Permittee shall include employee training procedures and implementation schedules in the BMP Plan as follows:

      i. Employee training in proper operating procedures related to compliance with the NPDES permit.

      ii. Training for emergency spill response, related to NPDES facilities or Spill Prevention Control and Countermeasure (SPCC) Plans.

   c. The BMP Plan must contain the following information:

      i. A narrative description of the construction, design and purpose of all NPDES related impoundments, pumping and re-use systems and other mine process facilities.

      ii. A 1" to 500' scale map showing the delineations of all drainage and the flow routings of potential discharges from the 10-year, 24-hour and 100-year, 24-hour storm events.

      iii. Identification of all mine process areas which have the potential to contribute to unauthorized discharges resulting in violations of surface water quality standards and effluent limitations as a result of equipment or power failure, failure of containment/impoundment structures, overflow of impoundment capacity due to storm water run-off and improper operation or construction of facilities.

iv. Documentation of the capacities of all current NPDES related storage units, including sediment basins associated with each outfall, pumping capacity, treatment capacity or combination thereof.

v. Outline of all measures taken subsequent to permit issuance to quantify process related seeps. This outline may conform with the requirements of Arizona's Aquifer Protection Permit Program.

vi. Outline of all storm water management measures which may consist of diversion, containment, pumping or other alternatives.

vii. Outline of all best management practices developed for the control of the discharge of storm water from each outfall, including a detailed description of how potentially contaminated runoff will be directed into the retention ponds. These practices may consist of diversion, containment, runoff dispersion, sediment control and collection, vegetation, pumping, or other alternatives.

d. Permittee shall use the above information to complete an overall assessment of the measures necessary at the Carlota operations to prevent violations of surface water quality standards as a result of discharges regulated by this permit. The assessment shall include the evaluation of controls such as expanding process and storm water storage capacity, water re-cycle and re-use capacity. The assessment shall also address control of process related seeps which may be identified. This assessment may conform to the requirements of Arizona's Aquifer Protection Permit program.

e. Permittee shall submit an engineering plan including implementation schedules and final compliance dates to EPA for the measures identified in the assessment as being necessary to prevent unauthorized discharges and effluent limitation or surface water quality standards violations as a result of discharges regulated by this permit.

f. Permittee shall submit information on process related seeps and steps being taken pursuant to the Arizona Aquifer Protection Permit program to characterize and control process related seeps.

2. By six months from the effective date of this permit, Permittee shall commence implementation of the following BMPs for containment structures. Records of activities undertaken and observations shall be maintained on a monthly basis during months in which measurable rainfall occurs. Data shall be recorded in a hardbound field notebook which shall be available at the facility for review by ADEQ and EPA.

a. Permittee shall monitor the available surge capacity and freeboard in any retention/containment pond monthly and report the available safe water storage capacity quarterly. Monthly observations shall be recorded in a field notebook and reported with the ambient monitoring data. After storm events, Permittee shall take measures as soon as practicable to restore containment pond freeboard to a height sufficient to contain the designed storm event. Such measures shall be continued by Permittee until adequate freeboard is restored.

b. Permittee shall assess the siltation of the retention/containment ponds monthly and after rainfall events of over 3" in 24 hours. Permittee shall take action to remove solids when liquid storage capacity is less than 80% of the required design volume.

c. Permittee shall develop specific emergency contingency plans for discharges from ponds containing process fluids, electrowinning facilities, and spills of hazardous substances and oil. Such plans shall at a minimum address containment and/or treatment, if necessary, to prevent violations of surface water quality standards due to an unauthorized discharge.

d. Permittee shall take action to make areas identified as vulnerable to unauthorized discharges accessible by emergency equipment in the event of a spill event.

e. Permittee shall develop routine inspection and maintenance procedures or containment/storage areas to be put into effect after significant storm events. These procedures shall include:

i. Structural repair of berms, ditches, dikes, dams;

ii. Maintenance of ponds, containment structures, pipelines, pump stations; and

iii. Inspection procedures for storage/containment ponds to assess available freeboard and surge capacity.

3. By six months from the effective date of this permit, Permittee shall initiate the following BMPs for seepage identification:

a. Permittee shall conduct quarterly inspections to identify process related seeps located on mine property. Process related seeps are defined as meeting the following criteria:

i. Discharges as defined by the Clean Water Act to waters of the United States;

ii. Discharges with an observable and measurable flow of at least one gallon per minute upon discharge to waters of the United States or may otherwise potentially impact waters of the U.S., including accumulation of metal-bearing salts;

iii. Discharges with continuous flow unrelated to storm events defined as being found to flow continuously 72 hours after a storm event; and

iv. Discharges which are down-gradient or within 1/4 mile of mine process areas.

b. Any seeps identified on mine property must be reported to EPA, along with the likely source of the seep.

c. The Permittee shall take an initial grab sample of any "mining seeps" and analyze the sample for the parameters listed in Table I of this permit. If the seep is in compliance with Arizona Water Quality Standards, the Permittee shall sample the seep on a quarterly basis pursuant to Part I.B of this permit.

d. If the water flowing from the "mining area seeps" does not meet Arizona water quality standards, the Permittee shall report the seep together with information listed in section A.4 of this permit and a response plan and compliance schedule.

4. The BMP Plan shall be updated annually and submitted to EPA and ADEQ.

5. On a date within 18 months after the effective date of this permit, and annually thereafter, Permittee shall submit to the Regional Administrator and ADEQ a report detailing compliance with the described BMPs and the BMP Plan.

D. AMBIENT MONITORING REQUIREMENTS AND CONDITIONS

1. Surface Water Monitoring: Upon EPA's approval of Permittee's ambient monitoring plan (as described in Part I.D.3. of this permit), the Permittee will be required to sample and analyze surface water samples within segments of Pinto Creek, Haunted Canyon, and Powers Gulch to assess the quality of receiving waters that would potentially be affected by discharges authorized under this permit. If no flow is present during the quarter, no monitoring is required. Permittee shall note this condition on the semi-annual report required in Part D.4. Samples will be analyzed for the parameters described below:

a. Each quarter, one composite sample shall be collected during a single discharge event. The sample must be collected at approximately the same time as the collection of discharge samples, as described in Part I.A.2.c. of this permit.

b. Samples will be analyzed for the parameters described in Table I of this permit.

c. During each discharge event, stream flow will be measured.

d. Sample Locations: The Permittee shall collect samples from the following locations illustrated in Figure 2 of this permit [as described in the *Draft Groundwater and Surface Monitoring Plan: Carlota Copper Project* (GRC, 1997)]:

i. Pinto Creek: surface water station PC-1 (immediately upstream of 005 Gulch);

ii. Pinto Creek: surface water station SW-3 (immediately upstream of the Pinto Creek Diversion);

iii. Pinto Creek: above Outfall 005;

iv. Pinto Creek: below Outfall 005;

v. Pinto Creek: surface water station PC-6 (above the confluence with Haunted Canyon);

vi. Pinto Creek: surface water station PC-7 (below the confluence with Haunted Canyon);

vii. Haunted Canyon: surface water station HC-2.

viii. Powers Gulch: above Outfall 007 at PG-1 below the diversion.

ix. Powers Gulch: above Outfall 004 at SW-1.

x. Powers Gulch: below Outfall 001 at PG-4a.

2. Biological Testing and Monitoring of Aquatic Resources - The Permittee shall conduct monitoring of aquatic organisms annually to assess the effects of potential discharges on aquatic organisms and on aquatic habitat, as outlined below:

a. The Permittee will collect benthic macroinvertebrates samples from four (4) locations on Pinto Creek (at surface water monitoring stations PC-6, PC-7, and SW-3 and from one location on Haunted Canyon at monitoring station HC-2.

b. Samples will be collected twice per year: once during the Spring and once during the Fall.

3. Monitoring Plan - Within ninety days of the effective date of this permit, the Permittee will be required to submit to ADEQ and EPA a draft ambient monitoring

and analysis plan that describes procedures for the required chemical and biological sampling described in this permit:

a. EPA and ADEQ will provide comments to the Permittee on the submitted plan within 30 days of receipt. The Permittee must submit a final ambient monitoring plan to EPA and to ADEQ within five months of the effective date of this permit.

b. The plan must be approved by EPA and may be developed in concurrence with other ambient water quality monitoring plans that are being developed to address regulatory compliance with ADEQ's Aquifer Protection Permit and the Final Plan of Operations.

c. The monitoring plan shall describe the bioassessment method based on the guidelines outlined in the latest revision of ADEQ's October 19, 1994 guidance document entitled *Biological Sampling Protocols: Reference Site Selection and Sampling Methods.*

d. Each monitoring plan must include the following: sampling locations; a brief description of the sample collection and handling procedures; sample transport and chain-of-custody procedures; laboratory analysis; quality assurance/quality control (QA/QC): protocols, and data submission schedules.

4. Reporting

a. The Permittee shall record all field sampling activities in a hard bound field notebook. Entries must be dated, applicable, written in permanent ink, and contain accurate information. Entries must include the following information in addition to that required by the EPA Region 9 Standard Reporting Conditions:

i. Weather conditions;
ii. Sampling point identification;
iii. Type of blank collected and method of collection;
iv. Field measurements;
v. Conditions/color/characteristics of samples, as well as of the streambed and banks;
vi. Names of sampling personnel.

b. The surface water sampling parameters specified in Table I will be subject to a reassessment and potential reduction in monitoring requirements after twenty-four months following the first date of discharge where at least nine discharge events have occurred.

c. The Permittee will be required to submit all monitoring results to ADEQ and

EPA twice per year at the following addresses:

U.S. EPA Region IX
NPDES/DMR, WTR-7
75 Hawthorne Street
San Francisco, California 94105-3901
Telephone: (415) 744-1905
Arizona Department of Environmental Quality
Water Permits Section
Federal Permits Unit (M0401A)
3033 N. Central Avenue
Phoenix, Arizona 85012
Telephone: (602) 207-4620

E. DEFINITIONS

1. A "discrete" sample means an individual sample collected from a single location at a specific time, or over a period of time not exceeding 15 minutes. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3 (Table II). Where collection, preservation and handling procedures are not outlined in 40 CFR 136.3, procedures outlined in the 18th edition of Standard Methods for the Examination of Water and Wastewater shall be used.

2. The "daily maximum" concentration means the measurement made on any single discrete sample or composite sample.

3. A “composite sample” is defined as a time-proportioned mixture of not less than three (3) discrete aliquots obtained at equal time intervals. Each aliquot shall be a discrete sample of not less than 100 ml and shall be collected and stored in accordance with procedures outlined in the most recent edition of Standard Methods for the Examination of Water and Wastewater. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3 (Table II). Where collection, preservation and handling procedures are not outlined in 40 CFR 136.3, procedures outlined in the 18th edition of Standard Methods for the Examination of Water and Wastewater shall be used.

4. The "Minimum Level (ML)" is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all of the method-specified sample weights, volumes, and processing steps have been followed (as defined in EPA’s Draft National Guidance for the Permitting, Monitoring, and Enforcement of Water Quality-Based Effluent Limitations Set Below Analytical Detection/Quantitation Levels, March 22, 1994). Promulgated method-specified MLs are contained in 40 CFR

Part 136, Appendix A and must be utilized if available. If a promulgated method-specific ML is not available, then an interim ML shall be calculated. The interim ML is equal to 3.18 times the promulgated method-specified MDL rounded to the nearest multiple of 1, 2, 5, 10, 20, 50, etc.

5. The "Practical Quantitation Level (PQL)" is the lowest concentration of the analyte that can be reliably measured within specified limits of precision and accuracy during routine laboratory operating conditions [as defined in the Federal Register on July 8,1987 (52 FR 25699)].

6. The "Method Detection Limit (MDL)" is the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte, as defined by the specific laboratory method listed in 40 CFR Part 136, Appendix B.

7. The "10-year, 24-hour storm event" represents the depth of rainfall that would occur in a 24-hour period on average every ten years. This is a calculated average value based on probability of occurrence, which is determined using long-term precipitation data.

8. The "100-year, 24-hour storm event" represents the depth of rainfall that would occur in a 24-hour period on average every 100 years. This is a calculated average value based on probability of occurrence, which is determined using long-term precipitation data.

9. A "discharge event" refers to discharge resulting from releases from permitted retention ponds located at the toes of the waste rock dumps described on page 1 of this permit.

Part II

A. MANAGEMENT REQUIREMENTS

1. Duty to comply [40 CFR 122.41(a)] - The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

   a. The Permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

b. The Clean Water Act provides that:

(1) Any person who causes a violation of any condition in this permit is subject to a civil penalty not to exceed $25,000 per day of each violation. Any person who negligently causes a violation of any condition in this permit 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 year, or both for a first conviction. For a second conviction, such a person is subject to a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or both. [33 U.S.C. § 1319(c)(1)].

(2) Any person who knowingly causes violation of any condition of this permit is subject to fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than three years, or by both for a first conviction. For a second conviction, such a person is subject to a fine of not more than $100,000 per day of violation, or by imprisonment of not more than six years, or both. [33 U.S.C. § 1319(c)(2)].

(3) Any person who knowingly causes a violation of any condition of this permit and, by so doing, knows at that time that he thereby places another in imminent danger of death or serious bodily injury shall be subject to a fine of not more than $250,000, or imprisonment of not more than 15 years, or both. A person who is an organization and violates this provision shall be subject to a fine of not more than $1,000,000 for a first conviction. For a second conviction under this provision, the maximum fine and imprisonment shall be doubled. [33 U.S.C. § 1319(c)(3)].

2. Need to halt or reduce activity not a defense [40 CFR 122.41(c)] - It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Proper operation and maintenance [40 CFR 122.41(e)] - The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

4. Duty to Mitigate [40 CFR 122.41(d)] - The Permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Bypass [40 CFR 122.41(m)]

a. Definitions

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass not exceeding limitation - The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

c. Notice

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

(2) Unanticipated bypass. If the Permittee shall submit notice of an unanticipated bypass as required in paragraph Part (I)(B)(4)(f) (24-hour notice).

d. Prohibition of bypass

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

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

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or

maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The Permittee submitted notices as required under paragraph (c) of this section.

(2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (d)(1) of this section.

6. Upset [40 CFR 122.41(n)]

a. Definition - "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Effect of an upset - An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset - A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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

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

(3) The Permittee submitted notice of the upset as required in paragraph Part (I)(B)(4)(f) (24-hour notice).

(4) The Permittee complied with any remedial measures required under 40 CFR 122.41(d).

d. Burden of proof - In any enforcement proceeding the Permittee seeking to establish the occurrence of an upset has the burden of proof.

7. Permit modification [40 CFR 122.63 and 122.62] - Upon the consent of the Permittee, the Director may make minor modification to the permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of 40 CFR Part 124. Any permit modification not processed as a minor modification under this section must be made for cause and with 40 CFR Part 124 draft permit and public notice as required in 40 CFR 122.62. Minor modifications may include the following:

a. Correction of typographical errors;

b. Require more frequent monitoring or reporting by the Permittee;

c Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.

d. Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation prior to discharge under 40 CFR 122.29.

e. Deletion of a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with the permit limits.

f. Incorporation of conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 as enforceable conditions of the POTW permit.

8. Removed Substances [Pursuant to Clean Water Act Section 301] - Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewater shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. RESPONSIBILITIES

1. Transfers by modification [40 CFR 122.61(a)] - Except as provided in 122.61(b), a permit may be transferred by the Permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under 40 CFR 122.62(b)(2), or a minor

modification made (under 40 CFR 122.63(d)), to identify the new Permittee and incorporate such other requirements as may be necessary under CWA.

2. Automatic transfers [40 CFR 122.61(b)] - As an alternative to transfers under section (1), any NPDES permit may be automatically transferred to a new Permittee if:

   a. The current Permittee notifies the Director at least 30 days in advance of the proposed transfer date in paragraph (b) of this section;

   b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

   c. The Director does not notify the existing Permittee and the proposed new Permittee of his or her intent to modify or revoke and reissue the permit. A modification under this subparagraph may also be a minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in the paragraph (b) of this section.

3. Availability of Reports - Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential. [33 U.S.C. §§ 1318(b) and 1342(j); 40 CFR § 122.7].

4. Furnishing False Information and Tampering with Monitoring Devices - The Clean Water act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained in this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than two years per violation, or by both for a first conviction. For a second conviction, such a person is subject to a fine of not more than $20,000 per day of violation, or imprisonment for not more than four years, or both. [33 U.S.C. § 1319(c)(4)].

5. Civil and Criminal Liability - Except as provided in permit conditions on "Bypass" (Part II.A.5.) and "Upset" (Part II.A.6.), nothing in this permit shall be construed to relieve the Permittee from civil or criminal penalties for noncompliance. The inclusion or exclusion of any applicable regulatory or statutory requirement shall not be construed to exempt the Permittee from any otherwise applicable laws and/or regulations.

6. Oil and Hazardous Substance Liability - [Pursuant to Clean Water Act Section 311] - Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of the Clean Water Act.

7. State or Tribal Law [Pursuant to Clean Water Act Section 510] - Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any applicable State or Tribal law or regulation under authority preserved by Section 510 of the Clean Water Act.

8. Property rights [40 CFR 122.41(g)] - This permit does not convey any property rights of any sort, or any exclusive privilege.

9. Severability [Pursuant to Clean water Act Section 512] - The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and remainder of the permit, shall not be affected thereby.

Part III - OTHER REQUIREMENTS

1. Duty to Reapply [40 CFR 122.21(d)] - The Permittee shall submit a new application 180 days before the existing permit expires.

2. Applications [40 CFR 122.22]

   a. All permit applications shall be signed as follows:

      (1) For a corporation, all permit applications shall be signed by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

         (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

         (ii) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

      (2) For a partnership or sole proprietorship, all permit applications shall be signed by a general partner or the proprietor, respectively; or

   b. All reports required by permits and other information requested by the Director shall be signed by a person described in paragraph (a) of this Section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

      (1) The authorization is made in writing by a person described in paragraph (a) of this Section;

      (2) The authorization specified 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. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

(3) The written authorization is submitted to the Director.

c. Changes to authorization - If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification - Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

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

3. Signatory requirement [40 CFR 122.41(k)]

a. All applications, reports or information submitted to the Director shall be signed and certified. (See 40 CFR 122.22).

b. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than two years per violation, or by both for a first conviction. For a second conviction, such a person is subject to fine of not more than $20,000 per day of violation, ore imprisonment of not more than four years, or both. [33 U.S.C. §1319(c)(4)].

4. Permit actions [40 CFR 122.41(f)] - The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

5. Duty to provide information [40 CFR 122.41(h)] - The Permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating

this permit or to determine compliance with this permit. The Permittee shall also furnish to the director upon request, copies of records required to be kept by this permit.

6. Inspection and entry [40 CFR 122.41(I)] - The Permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

   a. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

   b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

   c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

   d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

7. Existing manufacturing, commercial, mining, and silvicultural dischargers [40 CFR 122.42(a)] - In addition to the reporting requirements under 40 CFR 122.41(l), all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director as soon as they know or have reason to believe:

   a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

      (1) One hundred micrograms per liter (100 ug/l);

      (2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol; and one milligram per liter (l mg/l) for antimony;

      (3) Five times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

      (4) The level established by the Director in accordance with 40 CFR 122.44(f).

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(1) Five hundred micrograms per liter (500 ug/l);

(2) One milligram per liter (1 mg/l) for antimony;

(3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g(7);

(4) The level established by the Director in accordance with 40 CFR 122.44(f).

8. Termination of permits [40 CFR 122.64] - The following are causes for terminating a permit during its term, or for denying a permit renewal application:

a. Noncompliance by the Permittee with any condition of the permit;

b. The Permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the Permittee's misrepresentation of any relevant facts at any time;

c. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

d. A change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).