



# **RESPONSE ACTION MAINTENANCE PLAN**

**Coeur d'Alene Tribe, State of Idaho, United States Environmental Protection Agency and Union Pacific Railroad**

**January 22, 2008**

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## **LIST OF ACRONYMS**

ACP – Asphalt concrete pavement.

ARAR – Applicable, Relevant and Appropriate Requirements.

Box – 21 square mile area encompassing Operable Unit 1 and 2 of the Bunker Hill Mining and Metallurgical Complex Superfund Site.

CD – Consent Decree *United States of America and State of Idaho v. Union Pacific Railroad Company and Coeur d'Alene Tribe v. Union Pacific Railroad Company* (Case number 99-0606-N-EJL)

CERCLA – Comprehensive Environmental Response, Compensation and Liability Act.

CITU – Certificate of Interim Trail Use.

EE/CA – Engineering Evaluation/Cost Analysis.

EPA – U.S. Environmental Protection Agency.

Governments – EPA, the State of Idaho and the Coeur d'Alene Indian Tribe

ICP – Institutional Control Program.

IDEQ – Idaho Department of Environmental Quality.

IDPR – Idaho Department of Parks and Recreation.

MFG – McCulley, Frick and Gilman.

MOA – Memorandum of Agreement.

M&R – Maintenance and Repair.

O&M – Trail – Operation and Maintenance – Trail.

PHD – Idaho Panhandle Health District.

RAD – Remedial Action Design.

RAMP – Response Action Maintenance Plan.

ROW – Right of way.

SOW – Statement of Work.

State – State of Idaho.

STB – Surface Transportation Board.

THWP – Tribe Hazardous Waste Management Program.

Trail – Trail of the Coeur d’Alenes.

Tribe – Coeur d’Alene Indian Tribe.

TRMP – Tribe Recreation Management Program.

UPRR – Union Pacific Railroad Company.

## RAMP Mission Statement

The mission of the Response Action Maintenance Plan (RAMP) is to protect human health and the environment from the presence of contaminants that remain in place following response actions within the railroad right-of-way (ROW)<sup>1</sup> formerly operated by Union Pacific Railroad (UPRR) and other railroads, which has been converted into a recreational trail known as the Trail of the Coeur d'Alenes (Trail).

### 1.0 RAMP PURPOSE AND BACKGROUND

- Purpose

The RAMP sets out the oversight and management activities of the State of Idaho (State), the Coeur d'Alene Tribe (Tribe) and the United States Environmental Protection Agency (EPA) to ensure that the response actions conducted on the ROW are maintained and preserved to protect human health and the environment in a manner consistent with the Consent Decree (CD) between the State, Tribe, United States and UPRR entered by the U.S. District Court of Idaho on August 25, 2000.<sup>2</sup> The RAMP also includes institutional controls to monitor future construction activities on the ROW through training, permitting and licensing requirements. As between the Governments, the RAMP provides continuity, coordination and cost-effective management of activities on the ROW.

- Background

The UPRR rail line was constructed in the late 1800s to serve the mining industry in the Silver Valley of Northern Idaho. When the rail line was built, mine waste rock and tailings containing heavy metals were used at some locations for the original rail bed. In addition, the ROW was contaminated by ore concentrate spillage and by the fluvial deposition of contaminated materials within the flood plain. The contaminants of concern include lead, arsenic, cadmium and zinc.

In 1991, the Tribe filed a Comprehensive Environmental, Response, Compensation and Liability Act (CERCLA) lawsuit against UPRR to address releases of hazardous substances in the Coeur d'Alene basin, including contamination along the Wallace-Mullan Branch of the UPRR ROW. The Tribe's lawsuit resulted in multi-year negotiations between the United States, the Tribe, the State and UPRR which resulted in the entry of the CD between the parties in 2000.

The CD requires UPRR to conduct certain response activities on the ROW, including but not limited to certain contaminant removals, Trail construction and Maintenance and Repair (M&R)

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<sup>1</sup>The ROW is defined in the CD as:

- The Wallace Branch right-of-way which extends for 63.8 miles from mile marker 16.6 at Plummer Junction to mile marker 80.4 in Wallace;
- The Mullan Branch right-of-way which extends 7.6 miles from mile marker 0 at Wallace to the east side of Mullan at mile marker 7.6; and
- All sidings, bridges and structures thereon or connected thereto.

<sup>2</sup>Consent Decree entered August 25, 2000 by the United States District Court for the District of Idaho (Case Nos. 91-0342 and 99-606).

activities to preserve the condition of the Trail. The CD also requires UPRR to transfer by quitclaim deed(s) all of its right, title and interest in the ROW to the State and Tribe.

The CD also provides for Operation and Maintenance to be performed or funded by the State and Tribe in connection with the ROW Trail. These Operation and Maintenance -Trail (O&M – Trail) activities encompass all maintenance and repair activities in connection with the ROW Trail which are not specifically identified within the Statement of Work (SOW), Appendix G to the CD, as M&R activities for which UPRR is responsible. UPRR has established an escrow account for O&M activities. The Tribe and the State are required to use the monies from the escrow account to perform or fund O&M – Trail activities as provided by the State-Tribe Agreement.

- The ROW and Response Overview

The ROW is located in the northern panhandle of Idaho, extends approximately 73 miles and covers approximately 1,400 acres. The ROW begins near Plummer, Idaho on the Coeur d'Alene Indian Reservation and continues upstream to Mullan, Idaho, running along the southern shoreline of Lake Coeur d'Alene and the mainstem and South Fork of the Coeur d'Alene River.

In order to select proper response actions on the ROW, an Engineering Evaluation/Cost Analysis (EECA) was performed. *See* Appendix C to the CD. The EECA included a streamlined risk assessment, which found lead contamination to be the determining factor for the selection of response actions. *See* Appendix A to the EECA. The selected response actions consisted of 1) contaminant removals, 2) installation of protective barriers and 3) other engineered and non-engineered institutional controls.

Contaminant removals were conducted in specific areas of the ROW in accordance with the risk assessment and the extent of contamination. On the ROW in the Upper Basin, the portion above Harrison, periodic flooding in the river has resulted in the extensive presence of sediments containing mine tailings. In addition, portions of the railbed in the Upper Basin were constructed over pre-existing accumulations of contaminated materials, with such accumulations often extending to significant depths. Because of the broad distribution of commingled sediments and tailings throughout the flood plain and the depth of the contamination, removals conducted on the ROW in the Upper Basin focused on areas near residences and specific areas where Trail features are located. In the section between Harrison and Plummer, within the Reservation, the ROW is generally located out of the flood plain and largely in upland areas, and the ballast material is essentially the only source of mine waste contamination within the ROW. *See*, EECA Appendix C to the CD at p. 63. This portion of the ROW was extensively sampled, and was subject to complete removal actions, except for approximately 2100 feet of the Causeway Sections, and is not considered susceptible to recontamination from flooding.

After removal actions were conducted, protective barriers of asphalt, gravel, and vegetated soil were installed and serve as barriers against exposure to contaminants that were left in place. In addition, institutional controls were installed to control use and access of the ROW.

Institutional controls were developed for those portions of the ROW where contaminants remain in place. Engineered institutional controls limit exposure to contaminants by encouraging Trail

users to utilize protected areas, such as stop and view areas and oases, and to prevent use of unprotected areas. These controls include signs, fences, gates, barricades, and hostile vegetation. Non-engineered institutional controls encourage proper use and access of the ROW through inspection, training and education programs, and permitting and licensing of work projects within the ROW.

- Property transfer

In 2000, the federal Surface Transportation Board (STB) issued a Certificate of Interim Trail Use (CITU), which rail banked the ROW and authorized its interim use as a Trail.<sup>3</sup> In 2001, UPRR, the State, and the Tribe entered into an Interim Trail Use/Rail-Banking Agreement, which addresses UPRR's transfer of its right, title and interests in the ROW to the State and Tribe.

## **2.0 RAMP PARTIES AND ALLOCATIONS OF AUTHORITY**

The government parties to the CD, the EPA, the State and Tribe, have authority to enforce the terms of the CD, including those terms providing protection of human health and the environment.<sup>4</sup> As a result, the Governments share responsibility for oversight, operation and maintenance of response actions conducted under the CD on the ROW. Those oversight, operation and maintenance responsibilities are specified in the CD and the SOW, and are outlined in the RAMP. However, nothing in the RAMP is intended to limit or otherwise restrict the obligations of the government parties or UPRR under the CD and the SOW.

The RAMP is part of the State-Tribe Agreement. In the State-Tribe Agreement the State and Tribe have addressed how the State and Tribe will share jurisdiction and authority for different sections of the ROW. As provided in Section V of the State-Tribe Agreement, UPRR's interest in the ROW is to be transferred to the State and the Tribe as follows:

- the State-owned and managed portion of the ROW outside of the boundaries of the Reservation;
- the Tribe-owned and managed portion of the ROW within the boundaries of the Reservation, but outside Heyburn State Park; and,
- the jointly-owned and co-managed section of the ROW through Heyburn State Park.

Without diminishing their authorities to enforce the terms of the CD related to all portions of the ROW, the State and Tribe agree, for the purposes of implementing the activities under the RAMP, that the State will have primary authority over the portion of the ROW from Mullan to Harrison and that the Tribe will have primary authority over the portion of the ROW from Harrison to Plummer (outside of Heyburn Park). The State and Tribe agree that the ROW through Heyburn Park will be jointly and cooperatively managed.

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<sup>3</sup> The CITU was issued by the STB on June 26, 2000, Docket No. AB-33 (Sub-No. 70).

<sup>4</sup> See Figure 1 RAMP Organization of governmental agencies and UPRR.



Although primary ownership and authority for certain portions of the ROW have been allocated to the State or the Tribe, the ROW shall be managed and operated as a whole and the RAMP provides joint oversight activities on all portions of the ROW. Specifically, State and Tribal staff may oversee and join any inspections on the ROW. In doing so, the State and Tribe will work together cooperatively and make good faith efforts to coordinate their oversight activities in order to reduce the incurrence of costs. *See* CD at ¶ 73.

## **2.1 Mullan through Harrison**

The State of Idaho is the owner and primary manager of the Mullan through Harrison section of the ROW, which encompasses about 57.1 miles of asphalt trail. For this portion of the ROW, the Idaho Department of Environmental Quality (IDEQ) is responsible for protecting human health and the environment and Idaho Department of Parks and Recreation (IDPR) is responsible for general management and operation. State authorities will apply to this portion of the ROW consistent with the terms of the RAMP.

Institutional control measures instituted under the RAMP are consistent with those implemented in Bunker Hill Superfund Box (Box) but are not identical. The remedy for the 7.9 mile section of the ROW within the Box was implemented by UPRR pursuant to a consent decree with the State and U.S. Government.<sup>5</sup> The RAMP does not apply within the Box. Oversight and management of the ROW within the Box is under the oversight of the State and EPA and subject to applicable institutional control rules of Idaho's Panhandle Health District (PHD).

## **2.2 Harrison through Plummer (outside of Heyburn Park)**

The Coeur d'Alene Tribe owns and is the primary manager of the Harrison through Plummer section of the ROW, which entails about 14.4 miles of asphalt trail. For this portion of the ROW, the Tribe Hazardous Waste Management Program (THWP) is responsible for protecting human health and the environment and the Tribe Recreation Management Program (TRMP) is responsible for general management and operation. Tribal authorities will apply to this section of the ROW consistent with the terms of the RAMP.

Mine waste and contaminated materials have been removed from the ROW from Harrison through Plummer within the Coeur d'Alene Reservation except for four sections that have water on both sides of the rail bed embankment. These sections, referred to as the Causeway Sections, vary in length from 1100 feet to 300 feet and are approximately 2100 feet in total length. Contaminated material within the Causeway Sections was removed to an elevation of 2,126 feet, a depth of approximately 10 feet; the embankment was rebuilt over these removal areas and covered with rock rip-rap on the lake side thereby isolating the contaminated material with approximately 10 feet of clean fill (2136' elevation). The asphalt Trail placed within these Causeway Sections serves as a barrier that is consistent with that placed outside of the

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<sup>5</sup> *See* Consent Decree; Bunker Hill; *United States of America and State of Idaho v. Union Pacific Railroad Company; Stauffer Management Company; Rhone-Poulenc*; Civil Action No. 95-0152-N-HLR (Mar. 24, 1995). Maintenance and repair activities of this section of the ROW are contained in the "Bunker Hill Superfund Site, Union Pacific Area, Post-Closure Operation and Maintenance Plan," prepared by MFG, Inc. in April 2001 for UPRR.

Reservation.

### **2.3 Heyburn Park**

The approximately three miles of ROW passing through Heyburn Park will be jointly owned and managed by the Tribe and State. Both the State and Tribe are responsible for implementing any RAMP oversight activities on this portion of the ROW and will work cooperatively to implement those activities in a manner that minimizes duplicate efforts and costs.

Joint management authority and activities are provided in the Heyburn Park ROW/Trail Long Term Management Plan and the Heyburn Park ROW/Trail Operations Plan. Any construction authorized by the State or Tribe on the ROW passing through the Park shall be consistent with the substantive requirements of the RAMP.

### **3.0 RESPONSE ACTIONS**

Response actions were selected to provide protection in three exposure scenarios – residential, recreational and occupational uses of the ROW. *See*, EECA Appendix C to the CD. Any future response actions must be consistent with these response measures.

Given the limited amount of contamination, the extensive removals of that contamination and the limited risk of re-contamination, response actions on the ROW within the Reservation were implemented as described in Section 2.2. Therefore, future response measures within the Reservation, as described below generally will apply only to the Causeway Sections.

#### **3.1 ROW near Residential Areas**

Response actions to protect residential populations included contaminant removals and the construction of clean barriers along the entire width of the ROW near residential areas. The clean barriers included the installation of 1) a 10-foot wide 6-inch thick barrier, comprised of a minimum of four inches of clean compacted coarse aggregate base, 2) a minimum of a 2.5 inch thick asphalt concrete pavement (ACP) barrier and 3) 12-inch soil and gravel barriers extending 500 feet along the ROW beyond all residential areas. Also, a 6-inch vegetated soil barrier extends an additional 500 feet within the ROW. Education, signs, park patrol, and local government assistance supplement these response actions.

#### **3.2 ROW in Remote Areas**

Response actions to protect recreational Trail users from contaminated materials within remote areas of the ROW included some contaminant removals and the installation of 1) a 10-foot wide 6-inch thick barrier, comprised of a minimum of four inches of clean compacted coarse aggregate base, 2) a 2.5 inch thick ACP barrier and 3) shoulder gravel on either side of the ACP. These asphalt and gravel barriers cover exposed ballast and other mine waste contaminated materials for a 20-foot width unless otherwise limited by boundary conditions. At remote sidings, a 12-inch soil and gravel barrier was installed for a length of 1000 feet or the length of the siding, whichever was shorter.

The response actions also included trail features to limit access and exposure to contaminated materials in remote areas and encourage use of protected ROW areas. Access to contaminated areas is limited by the use of fences, barricades and hostile vegetation. Protected ROW areas include Trail oases, stop and view areas, and trailhead areas, which were constructed with barriers to limit exposure to contaminated materials. Education, signage, and enforcement patrols, performed as part of the operation and maintenance activities, supplement these response actions.

### **3.3 ROW Occupational Exposure**

Occupational exposure to contaminants on the ROW is minimized by training and monitoring personnel who perform Trail maintenance and repair and other construction, operation and maintenance activities on the ROW.

Those individuals who routinely come into contact with contaminants on the ROW (including State and Tribal employees working on the ROW and persons other than UPRR performing work projects on the ROW, i.e. “non-M&R” construction) are required to attend training to educate them about ROW conditions and methods to limit exposure to contaminants. Contractors are also required to comply with permitting and licensing requirements, which include providing proper material handling procedures and other protective health and safety measures.

## **4.0 UPRR RESPONSIBILITIES**

UPRR is responsible pursuant to the CD for performing and funding response actions and other activities. UPRR is responsible for the following to the extent required by the CD and SOW<sup>6</sup>:

- conducting scheduled and unscheduled M&R activities as specified in the M&R Plan<sup>7</sup>;
- collecting samples associated with any required repair of barriers and data related to assessing the adequacy of access controls to the extent required by the M&R Plan;
- submitting various reports on its activities and the condition of the ROW; and
- funding government activities in accordance with the CD.

The CD and SOW obligations are incorporated herein by reference.<sup>8</sup> UPRR currently retains contractors to implement its M&R obligations. References to UPRR made herein include UPRR or its retained contractors.

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<sup>6</sup> Nothing herein is intended to alter or modify in any way the rights, duties, responsibilities and obligations of UPRR under the CD, or to create any obligations, responsibilities or duties on the part of UPRR that are not required under the CD. In the event of any inconsistency or conflict between this RAMP and the CD or the SOW (including without limitation any attachments to the CD or SOW), the CD or SOW shall prevail.

<sup>7</sup> The M&R Plan is Attachment E to the SOW.

<sup>8</sup> The SOW is Appendix G to the CD.

Every five years or as otherwise mutually agreed by the parties, UPRR may present to the EPA, State and Tribe a proposal under which UPRR would be released from all obligations to perform or fund future M&R in return for payment of an agreed upon amount. Such a settlement will occur only upon agreement by the EPA, Tribe, State and UPRR (*see* Paragraph 82 of the CD). Upon such approval, the Governments or their designated implementing entity shall assume the M&R duties of UPRR.

#### **4.1 Scheduled and Unscheduled M&R**

Scheduled M&R activities include monthly and semi-annual inspections of the ROW and necessary routine maintenance. Unscheduled M&R activities are storm event driven inspections and non-routine maintenance.<sup>9</sup> In accordance with the M&R Plan, UPRR shall provide advance notice to the Governments of its maintenance activities and shall make the necessary repairs to the barrier and trail features in accordance with the CD and SOW. This includes repairing or replacing access controls, which are damaged to the extent their intended function is impaired, and the installation of additional access controls that may be identified as necessary in accordance with the criteria and annual reviews specified in the M&R Plan.<sup>10</sup> UPRR shall also conduct repairs and maintenance activities required by the M&R Plan which are identified by the various government entities during their inspections and oversight activities, including but not limited to Category II and Category III repairs identified in Preventative Care Activities described in Section 5.1.2 below. UPRR shall also install modifications to the barrier and access controls that result from land use changes to the extent that such modifications to barriers or access controls are required under the CD and to maintain the integrity of the barriers or effectiveness of engineered institutional controls.

Although not obligated to do so, the State and Tribe Trail staff may elect to perform incidental barrier erosion and other similar repairs that they may identify during their routine O&M activities. Although not obligated to do so, to facilitate such incidental repairs by the Trail staff, UP may place a source of “clean” replacement material in several locations along the Trail for use by State and Tribal staff.<sup>11</sup> UPRR is responsible for sampling and reporting activities as set forth in the M&R Plan to ensure construction materials utilized in its M&R and other activities meet required technical specifications. The governments may also sample the materials to

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<sup>9</sup> Storm events include flooding and major storms. Flooding is defined as a river depth of 43 feet or greater, compared to the base datum of 2100 feet above sea level, measured at U.S. Geological Survey gauge number 12413500 on the Coeur d’Alene River at Cataldo, Idaho. A major storm is defined as 3.0 inches of rainfall within a 24-hour period measured by the National Weather Service gauge in Coeur d’Alene, Idaho or the Kellogg fire station in Kellogg, Idaho.

<sup>10</sup> UPRR’s obligation for existing access controls ends three years after completion of the Removals, Disposal, and Protective Barrier Element of Work (i.e., after the first three years of operation).

<sup>11</sup> The containers would be located at trailheads and oasis areas. Although not obligated to do so, UPRR may provide containers, replenish clean materials and dispose of contaminated materials from such incidental repairs. Replenishment of materials and collection of material for disposal would generally occur once per month and would not occur on those portions of the trail where access is encumbered by weather (e.g., snow cover, etc.)

confirm compliance with technical specifications.

## 4.2 Reporting

UPRR is required to submit various reports to the Governments and collect data related to those reports to ensure the proper maintenance of the ROW. UPRR will prepare and submit the following reports:

- Monthly Progress Reports regarding its M&R activity (Section 3.6 of the SOW).
- Semi-Annual M&R Reports (Section 3.7 of the SOW).
- Annual Maintenance and Repair Summary Reports (Section 3.8 and 2.7.3.11 of the SOW). UPRR will also participate in RAMP annual meeting. (Section 6.2.4 *infra*)
- Five Year Reviews (Paragraph 36 of the CD, Section 2.7.3.12 of the SOW).
- Completion of Obligation Report for future Removals, Disposal and Protective Barriers Element of Work, Trail Element of Work, Residential Use Areas Element of Work, and Flood Damage Repair Element of Work in accordance with Sections 1.4.17 and 3.4 of the SOW, to the extent required by the SOW as part of the M&R Element of Work.
- Initiation Report of future operations to the extent required by the SOW as part of the M&R Element of Work.

Additional obligations related to UPRR’s Semi-Annual M&R Reports, Annual M&R Summary Reports and the Five Year Reviews are provided in Section 6.2 below.

## 4.3 Funding

To the extent required by the CD, UPRR will reimburse the Governments for conducting oversight activities. Reimbursable costs may include:

- any emergency response actions by the governments to repair barriers to prevent imminent failure;
- governments’ replacement of traffic, safety, advisory, and exposure management signs to the extent not covered by O&M – Trail;<sup>12</sup>
- installation of, and modifications to, access controls to the extent not covered by O&M – Trail;
- oversight activities that are related to small construction projects (work projects requiring less than three hours of government oversight);
- the governments’ necessary sampling and monitoring activities;<sup>13</sup>
- conducting and attending contractor and repair staff training to the extent necessary for performance of O&M – Trail and not for other purposes or programs;

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<sup>12</sup> See CD ¶ 25 for the definition of “Operation and Maintenance – Trail.”

<sup>13</sup> For Preventative Care Activities discussed in Section 5.2.1, UPRR is not required to reimburse the costs of observation and reporting but the cost for actions taken thereafter, including but not limited to documentation and follow-up reporting for these actions as future response costs (see Paragraph 25 of the CD).

- reviewing or developing plans, reports, the State-Tribe agreement, and other items pursuant to the CD, including participation in the Five Year Review process, and review of monthly, semi-annual and annual reports;
- verifying Work or otherwise implementing, overseeing or enforcing the CD, including but not limited to payroll, contractor, travel, and laboratory costs; and
- Work takeover in the event that the UPRR ceases work, is seriously or repeatedly deficient or late in performance of the work, or is implementing the work in a manner that may cause endangerment to human health or the environment, subject to the Dispute Resolution Procedures in Section XX of the CD (Section XXII, Paragraph 126 of the CD).

Costs of activities within the definition of O&M - Trail are not reimbursable. To the extent required by the CD, UPRR will reimburse the governments for Future Response Costs.

## **5.0 DESCRIPTION OF RESPONSE MEASURES AND ASSOCIATED RAMP ACTIVITIES**

RAMP oversight and other activities are designed to 1) ensure that M&R activities are performed in accordance with the requirements of the M&R Plan, 2) maintain and protect trail features such as signs and fences, and 3) provide education, training, licensing and permitting programs. Each government entity has specific obligations in relation to these activities, which are summarized in Table 1, the RAMP Activities Chart.<sup>14</sup> These obligations shall be implemented in accordance with the allocation of primary authority described in Section 2.0.

In addition, the Governments shall maintain data and records collected during various RAMP activities. The data and records shall be made available to the State and Tribe. This will enable the governments to document and review activities that are taking place along the entire ROW.

### **5.1 Barriers**

Asphalt, gravel, soil and vegetative barriers were installed to limit human and environmental contact with the contaminants beneath them. Throughout the ROW, a 10-foot wide, 2.5-inch thick ACP barrier was installed. Additional barriers were added based on whether the area was residential or remote. (*See* Section 3.0 Response Actions.)<sup>15</sup>

Breaches of the barrier or impacts to the barrier through direct or indirect means (such as soil excavation, water migration or sediment run-off) may pose potential health risks to humans and create possible sources of recontamination to existing clean barriers and remediated soils. As a result, barrier integrity must be preserved or satisfactorily replaced during construction activities.

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<sup>14</sup> Table 1 provides the obligations for EPA, IDEQ, IDPR, THWP and TRMP. The chart also includes obligations of an implementing entity that the State and Tribe intend to retain to perform activities related to training, permitting and licensing. In addition to these obligations, EPA, IDEQ, IDPR, THWP and TRMP are part of the Government Group and have obligations that are provided in Section 6.0 related to coordination, collaboration and reporting.

<sup>15</sup> Barrier types and locations are identified on RAD drawings and as-built maps for specific Elements of Work.

To ensure proper barrier maintenance, samples may be taken at the discretion of the governments following performance of work. Sampling will confirm whether materials used by UPRR or by persons subject to permitting requirements are consistent with SOW or RAMP requirements. Sampling may also be conducted after a catastrophic event, vandalism or unauthorized use which have impacted barriers. Performance sampling may also be conducted as part of oversight activities for the Five Year Review.<sup>16</sup>

The sampling protocols used by the governments should be consistent with the protocols identified in Section 4.8.2 of the M&R Plan. Sampling protocols are intended to 1) confirm barrier thickness; 2) determine the presence of contamination on the surface of the Trail; 3) ensure compliance of M&R and non-M&R construction activities; 4) assess barrier performance; and 5) define potential risk in an evaluation of the overall system.

In addition to sampling activities, the State and Tribe will inspect and oversee activities in connection with maintaining the condition of the protective barriers and trail features including:

- oversight of M&R activities;
- preventative care activities;
- monitoring land use changes; and
- licensing, permitting and overseeing construction projects on the ROW.

### **5.1.1 M&R Activities**

Scheduled and unscheduled M&R activities by UPRR shall be overseen by the State and Tribe through inspections and sampling. Oversight inspections will include observing the condition of all protective barriers, Trail surfaces, rail bed embankments, and access controls. The governments may also sample UPRR's construction materials to confirm compliance with the SOW requirements.

For scheduled M&R activities, the oversight inspections shall be conducted quarterly. Oversight of unscheduled M&R activities shall be on an as needed basis. Oversight forms shall be completed whenever the State or the Tribe conducts an inspection of M&R activities. *See* Appendix A Oversight Forms. The oversight forms and related records shall be maintained by the agency completing the forms and/or records and shall be made available to the State and Tribe.

The State and Tribe will bi-annually review the data related to the M&R activities as part of their oversight activities.

### **5.1.2 Preventative Care Activities**

Preventative Care Activities reduce the potential for exposure and recontamination by detecting and responding to repairs and conditions along the ROW that may arise between regularly

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<sup>16</sup> The Five Year Review may require a more thorough sampling effort to obtain supplemental data to support the Five Year Review process.

scheduled M&R activities. For example, Preventative Care Activities may be required to address barrier material migration, erosion and sloughing on steeper side slopes and fringe damage at the barrier interface with adjacent property or access points.

In conducting Preventative Care Activities and repairs, all technical specifications for quality of materials, the level of workmanship and proper disposal will be met.<sup>17</sup> Where practical, Preventative Care Activities will be performed in a manner that minimizes interruptions in Trail usage.

There are three levels of Preventative Care Activities that are taken in response to three categories of ROW conditions. When determining the Preventative Care Activity, the governments shall take into account the likelihood that failure to perform a small repair in a timely, cost-effective manner may result in larger repairs and associated costs at some future point.

- Category I ROW conditions include those which fall below the M&R Failure Criteria (Appendix B M&R Failure Criteria and the M&R Plan § 2.0). Such minor repairs will be conducted by Trail staff as part of general operation and management activities.
- Category II ROW conditions include those that fall within the M&R Failure criteria (Appendix B and M&R Plan § 2.0) and need immediate or future repairs. These repairs will be reported to UPRR and included in future M&R Activities.
- Category III ROW conditions require emergency repairs to prevent an imminent failure of the barriers or immediate threat to human health and the environment. These activities must be immediately reported to EPA, UPRR, IDEQ and THWP. Contact information for the involved agencies and other emergency resources are included in Tables 3 - 5. If a Category III activity is reported, UPRR will have the lead responsibility for performing such repairs. Repairs will be performed in accordance with the requirements of the M&R Plan. If the M&R Plan does not adequately address the nature of the failure, the State and Tribe, in coordination with EPA and UPRR, will select an appropriate repair plan.

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<sup>17</sup> Technical specifications for such activities can be found in the Project Material and Placement Specifications, Attachment G to the Statement of Work for the Union Pacific Railroad Wallace-Mullan Branch Response Action, December 1999, MFG, Inc., supplemented by the following documents:

- Response Action Design Report for the Union Pacific Railroad Wallace-Mullan Branch Response Action, July 1998, McCulley, Frick & Gilman (MFG), Inc.
- Flood Damage Repair Work Plan, Attachment B to the Statement of Work for the Union Pacific Railroad Wallace-Mullan Branch Response Action, June 1999, MFG, Inc.
- Response Action Work Plan for the Removal, Disposal and Protective Barriers Elements of Work of Attachment C to the Statement of Work for the Union Pacific Railroad Wallace-Mullan Branch Response Action, December 1999, MFG, Inc.
- Response Action Design Drawings, Attachment D to the Statement of Work for the Union Pacific Railroad Wallace-Mullan Branch Response Action, December 1999, MFG, Inc.
- Trail Work Plan, July 2001, MFG, Inc.
- Residential Use Areas Work Plan, January 2002, MFG, Inc.



To monitor and identify Preventative Care Activities, the State and Tribe will patrol those portions of the ROW over which they have primary authority. It is contemplated that the routine trail patrols described within this Section 5.0 will be performed as part of the State and Tribe's routine O&M activities.

The State and Tribe may tour any portion of the ROW to observe the condition and use of the ROW and to identify the need for Preventative Care Activities. Routine patrols are generally conducted on a daily basis from May through September during the high season of the public use of the Trail. Patrols may reduce in frequency as the public use declines. State and Tribe operations staff will seek to maintain a visible public presence. To the maximum extent practical, vehicles used by the State, Tribe or an implementing entity to conduct activities on the ROW will be clearly marked to distinguish them from ordinary vehicles.

Trail staff for the State and Tribe shall maintain incident logs, which record observations of significant ROW conditions and unauthorized Trail use. If Trail staff observe uses of unprotected areas within the ROW, such observations should be logged, including at a minimum, information on the location, the number adults and children who are observed in such area, and a description of the activity.

The incident logs and records shall be maintained in an organized manner and shall be made available to the State and Tribe. The incident log shall also identify any locations where Preventative Trail Care Activities may be required and may include the following information:

- Date
- Location by mile post
- Type of ROW condition or use encountered
- Observations made
- Any Preventative Care Activities recommended or taken
- Other problems encountered
- Photo documentation

The State and Tribe will bi-annually review the data related to the Preventative Care Activities as part of their oversight activities..

### **5.1.3 Land Use Changes**

The barriers were selected and installed based on the land use of the area at issue (remote or residential). Changes in land uses along the ROW may require modification of the installed barrier. For example, a land use change that alters a remote area to a residential area would require different types of installed barriers. (*See* Section 3.0 Response Actions).

The Tribe and State shall monitor such changes and report any findings to UPRR.

#### **5.1.4 Licensing and Permitting**

In addition to the M&R activities by UPRR, the governments may authorize other persons to conduct construction activities within the ROW. Work projects conducted by such other authorized persons are considered non-M&R construction.

Non-M&R construction on the ROW requires authorization from the government with primary authority for the portion of the ROW upon which the work will be conducted. The authorization from the State or Tribe shall include, as applicable, the following conditions: 1) the requesting party must comply with permitting and licensing requirements in the RAMP ICP (Appendix C); 2) projects that will require over three hours of government oversight activities are required to pay a fee that is sufficient to recover the Tribe's and State's management and oversight costs associated with such projects; 3) small projects that are subject to the licensing and permitting requirements in the RAMP ICP shall be required to obtain and submit a Record of Compliance from the permitting entity; and 4) work stoppage and reporting shall be required if archeological, historical and/or cultural features or items are uncovered during the construction activities.

The permitting and licensing requirements applicable to Non-M&R Construction work within the ROW are provided in Appendix C, RAMP ICP. These requirements will be implemented along the entire ROW. The State and Tribe may utilize other governmental or contractor entities to implement the RAMP ICP. In the event that the State or Tribe deems the implementation of the RAMP ICP by the implementing entity is insufficient to meet the goals of the RAMP ICP or the CD, the State or Tribe may seek corrective measures or an alternate implementation of the RAMP ICP. The State and Tribe retain the ultimate responsibility to implement the RAMP ICP, regardless of whether they engage an implementing entity.

The governments may inspect the ROW to ensure proper compliance with licensing and permitting regulations. Observations by and records of the governments and/or the implementing entity regarding the permitting and licensing shall be maintained and shall be made available to the State and Tribe. The State and Tribe will bi-annually review data related to non-M&R construction activities as part of their oversight activities.

#### **5.2 Access Controls**

Access controls are designed to discourage the public from coming into contact with hazardous substances or to encourage the use of protected areas. Access controls, such as signs, fences, barricades and hostile vegetation, discourage contact with contaminants, while access controls, such as trail oases, stop and view areas and trail head areas, encourage the use of protected areas.

The State and Tribe will monitor the condition of the access controls. Specifically, the State and Tribe will patrol the ROW and record observations related to access controls. Data and records related to access controls shall be maintained and made available to the State and Tribe. Based on these observations, the governments will determine any repair needs and whether additional access controls may be necessary to further discourage improper ROW use. UPRR will install and maintain access controls in accordance to their CD, SOW and M&R Plan responsibilities. Any access control needs beyond the UPRR obligations shall be implemented and/or maintained by the State and Tribe consistent with the allocation of authority in Section 2.0.

### **5.2.1 Signs**

Signs installed along the ROW provide location-specific warnings to users, contractors and operations staff. The signs identify areas where there is a potential for exposure to contaminants, especially in flood plain or historic mining areas, and to encourage users to respect private property that may be adjacent to the ROW.

### **5.2.2 Fences/Barricades**

Fences and barricades were installed in specific locations, which restrict access to areas where contaminants were not completely removed or where physical hazards exist. Fences and barricades also help restrict unauthorized vehicles' access onto the ROW and discourage vandalism and unauthorized use of the ROW.

### **5.2.3 Other Access Controls**

Other access controls, such as oases and hostile vegetation, were installed as part of ROW response actions to discourage Trail users from accessing contaminated areas lacking a protective barrier and to prevent vandalism or other activities that may damage barriers.

## **5.3 Community Relations, Education and Training**

RAMP community relations, education and training programs provide information about the ROW and the prevention of exposure to contaminants on the ROW. These programs will provide information to the general public, contractors and Trail employees regarding the purpose and function of the response actions on the ROW.

The State and Tribe will provide community relations and educational and training programs to educate residents, Trail users and contractors and staff working on the ROW.

### **5.3.1 Resident Education**

Resident education consists of the creation and distribution of pamphlets, brochures and other mailings and postings, as approved by both the State and Tribe, to educate residents living along the ROW. It may also entail public presentations at various cities along the ROW. Information in the printed material and presentations will focus on potential human health risks on the ROW and discouraging disruption of protective barriers.

Pamphlets will provide information regarding different aspects of the response actions, focusing on the explanation of barriers and ways to manage exposure to contaminated materials. Brochures will include more detailed information on the response actions and proper Trail use. Mailing and postings will illustrate and emphasize rest stops, picnic areas, oases and other clean areas along the ROW. Finally, public interaction with local elected officials, community groups, agencies, industry, and citizens will provide additional education.

### **5.3.2 Trail User Education**

Trail user education involves the use of pamphlets, brochures, maps and other informational displays to inform Trail users about proper uses of the ROW to ensure protection of human health. All pamphlets, brochures, maps and other informational displays related to the ROW are subject to State and Tribe approval.

The State and Tribe have developed, printed and distributed Trail user pamphlets, brochures and maps. These documents illustrate and emphasize rest stops, picnic areas, oases and other clean areas along the Trail. The documents also provide rules for ROW use in order to avoid contact with contaminants and to practice proper hygiene.

Pamphlets, brochures, and maps will be available at trailheads and other designated locations. Maps and other informational displays will be placed along the Trail to allow Trail users to plan their recreational use of the ROW.

### **5.3.3 Contractor & Staff Training**

RAMP training is required for State and Tribe employees working on the ROW and contractors performing non-M&R construction projects on the ROW. The purpose of including the training curriculum as part of the RAMP is to provide information pertaining to the function of protective barriers, as well as the reasons for and methods of contaminant management to minimize the risk of exposure.

The State and Tribe or a designated implementing entity will provide training programs for contractors and Trail staff.

#### **5.3.3.1 Contractor Training**

The training for non-M&R construction contractors is part of the licensing and permitting requirements detailed in Appendix C. The training curriculum for contractors may include:

- 1) Description of permit process.
- 2) Rules and regulations of material disposal and transportation.
- 3) Standards for imported materials.
- 4) Required practices for construction, excavation, dust control, run-off, and tracking.
- 5) Procedures for securing the site overnight or for longer periods.
- 6) Overview of general health and safety including exposure pathways and personal protection.
- 7) Description of response action including protective barriers, access controls, M&R, and material and placement requirements.
- 8) Requirements for sampling and testing.
- 9) Technical requirements that apply to construction work.
- 10) Examination.

### **5.3.3.2 Staff Training**

State and Tribal employees working on the ROW will complete a training program. The development of a training curriculum for Trail operations staff is not reimbursed by UPRR. The training program for State and Tribe employees on the ROW will be substantially similar to the contractor training program. Training may be individualized to meet the needs of State/Tribe employees in each session; however, the subject matter of the Trail staff training may include the following topics.

- 1) Barrier-specific maintenance and replacement training.
- 2) Rules and regulations of material disposal and transportation.
- 3) Standards for imported materials.
- 4) Required practices for construction, excavation, dust control, run-off, and tracking.
- 5) Procedures for securing the site overnight or for longer periods.
- 6) Overview of general health and safety including exposure pathways and personal protection.
- 7) Description of elements of response action including protective barriers, access control, M&R, and material and placement requirements.
- 8) Preventative trail care activities.
- 9) How to document barrier damage, land use changes and Trail use.
- 10) How to install temporary barriers.
- 11) Authorities and responsibilities for maintaining the remedy. Identify which entity is responsible to perform what tasks in which locations.
- 12) Discussion of the settlement with UPRR and the basis for determining which activities are to be reimbursed by UPRR and which are not.
- 13) Brief summary of permit process for contractors for awareness.
- 14) Record keeping and documentation requirements.
- 15) Examination.

## **6.0 COLLABORATION AND REPORTING**

### **6.1 The Government Group**

Representatives from EPA, IDEQ, IDPR, THWP, and TRMP shall form an oversight body that shall be called, and referred to as, the “Government Group.” The Government Group will meet bi-annually. Decisions by the Government Group are by consensus. A consensus is reached when a decision has been reduced to writing and no member objects.

The Government Group is responsible for various reporting and other collaborative efforts mentioned below that are intended to provide programmatic oversight of the RAMP. The Government Group also has dispute resolution responsibilities.

Specifically, the Government Group shall consider recommendations regarding modifications to the RAMP and to the response actions that are provided at bi-annual meetings. The Government Group shall adopt any necessary modifications in order to ensure the proper operation and maintenance of the Trail and the protection of human health and the environment. The Government Group will work with UPRR to assess, recommend and approve barrier modifications that are consistent with the requirements of the CD and SOW. UPRR will

implement such approved modifications to barriers to the extent required by the CD and SOW. The Government Group will also assist in community relations as needed.

## **6.2 Reporting**

Reporting is necessary to facilitate cooperative and coordinated oversight of the ROW and to determine whether the mechanisms for protecting human health and the environment through the response actions and the RAMP are succeeding and whether changes may be appropriate to advance such protections.

The reporting and review efforts include routine observations, monthly, semi-annual and annual reporting from UPRR, bi-annual meetings for RAMP activities, annual reports and Five Year Reviews.

### **6.2.1 Routine Reporting -- Incident Logs and Records**

To facilitate joint oversight of the ROW, the State, Tribe and implementing entities shall share data and records related to RAMP activities including but not limited to the incident logs and oversight forms of State and Tribe's operation staff. The exchanged data shall also include permitting and licensing information for non-M&R construction projects and contractors.

The State and Tribe shall each have access to this data and related records. Data and records related to the ROW shall be reviewed at least on a bi-annual basis to confirm compliance with the RAMP and the effectiveness of response measures.

### **6.2.2 Monthly Reports**

UPRR will submit Monthly Reports as required by the SOW Section 3.6. The UPRR Monthly Report is a consolidated status report on all work under the SOW.

Members of the Government Group will review the UPRR Monthly Progress Reports as part of general oversight of UPRR activities under the CD.

### **6.2.3 UPRR Semi-Annual M&R Reports**

The UPRR will submit Semi-Annual M&R Reports as required by M&R Plan Section 7.0 and SOW Section 3.7. The Semi-Annual Report is due by July 1<sup>st</sup> and will include 1) inspection checklists from the previous semi-annual inspection, 2) repairs categorized by location and type that were performed during the previous quarters, and 3) repairs categorized by location and type that need to be performed during the rest of the year and a schedule for performing those repairs. Requirements for the UPRR Annual M&R Summary Report are provided below under Section 6.2.5.1.

Representatives of the Government Group will review the UPRR Semi-Annual Reports and will provide comments and guidance as necessary.

#### **6.2.4 RAMP Bi-Annual Meetings**

The Government Group shall hold bi-annual meetings on May 1<sup>st</sup> and November 1<sup>st</sup> (if these days fall on a weekend or holiday, then the next following business day). An UPRR representative shall attend the second bi-annual meeting, and may attend the first meeting at UPRR's discretion, either in person or by teleconference. Minutes of the meetings will document the topic of discussions and any decisions by the Government Group.

Prior to each RAMP Bi-Annual Meeting, each State and Tribe government entity involved with the ROW shall review the shared data on the activities on the ROW and shall be prepared to discuss issues and recommendations related to oversight activities, permitting and licensing practices as well as barrier effectiveness and maintenance.

Prior to the second Bi-Annual meeting, each State and Tribe government entity involved with the ROW shall provide to the other representatives of the Government Group and UPRR with a written summary of their RAMP activities on the ROW as provided in Section 6.2.5.2 and its related subsections 6.2.5.2.1 – 6.2.5.2.3. The Government Group at the second bi-annual meeting shall consider the information in the written summaries and the UPRR Annual M&R Summary Report. The Government Group shall decide whether any further actions or modification are needed to protect the conditions on the ROW. Issues addressed and decided by the Government Group during the Bi-Annual meetings shall be identified and discussed in a written summary, which will be completed by the Government Group by the end of second Bi-Annual meeting for inclusion in the RAMP Annual Report.

Topics for discussion/decision at the bi-annual meetings include, but are not necessarily limited to, the following agenda items:

- review of the previous year's activities and budget and current year's activities
- action on proposed budget
- evaluate the performance of the implementing entity
- discuss assessments and recommendations and approve changes as necessary regarding
  - modification of RAMP program elements
  - potential cost control strategies
  - strategies to strengthen ongoing project communication
  - selection and use of implementing entities.

## **6.2.5 Joint Annual Program Audit**

Annual reporting for the Program Audit is composed of two parts: (1) the UPRR Annual M&R Summary Report and (2) the RAMP annual Report.

The UPRR Annual M&R Summary Report prepared by UPRR presents a summary of its activities, prepared and submitted in accordance with the CD and supporting documents.

The RAMP Annual Report prepared by the Government Group presents a summary of the activities, assessments and recommendations discussed at and compiled for the bi-annual meetings.

### **6.2.5.1 UPRR Annual M&R Summary Report**

UPRR will provide the Government Group an Annual M&R Summary Report in accordance with Sections 2.7.3.11 and 3.8 of the SOW. The report will be submitted by October 1<sup>st</sup> of the next reporting period. The reporting period is the previous year. For example, the report submitted on October 1, 2008 will cover M&R activities from September 2007 through September 2008.

Government Group will review the UPRR Annual Reports and will provide comments and guidance as necessary.

### **6.2.5.2 RAMP Annual Report**

On December 1<sup>st</sup> (or the next business day if December 1<sup>st</sup> falls on a weekend or holiday), the Government Group will submit the RAMP Annual Report to UPRR and each entity within the Government Group. RAMP Annual Report will be compilation of the written summaries presented at the second bi-annual meeting, each of which will include an oversight subsection, administrative subsection and cost control subsection. Each section of the RAMP Annual Report should reference any related items in UPRR Monthly Progress Reports and the UPRR Semi-Annual and Annual M&R Reports. The RAMP Annual Report will also include the written summary of issues addressed and decided by the Government Group during the RAMP Bi-Annual Meetings.

#### **6.2.5.2.1 Oversight Subsection**

The oversight subsection of the RAMP Annual Report will summarize RAMP activities taken by the State, Tribe and implementing entities on the ROW. This component of the RAMP Report will summarize observations made by State, Tribal and implementing entity operations and enforcement personnel regarding the following activities during the preceding year:

- community relations and educational efforts
- licenses and permits
- conditions of controls on use and access, including general access/use patterns, vandalism, unauthorized use and damage resulting from these activities



- activity related to signs, fencing and barricades, including damage to these features and identification of missing or needed features
- remedy M&R oversight
- non-M&R construction oversight
- Preventative Trail Care Activities
- land use changes
- verification of Trail barrier and remedy component damage
- sampling and monitoring compliance and assessment

The government entities will need to contact and coordinate with the implementing entity, if any, regarding activities performed by that entity during the year to ensure that its activities are included in the RAMP Annual Report.

#### **6.2.5.2.2 Administrative Subsection**

The administrative subsection of the RAMP Annual Report provides a periodic summary and update of staff allocations and costs, problems encountered, recommendations for problem resolution, effectiveness of solutions implemented, outstanding issues carried over from previous year to be addressed, and program status and schedule. The administrative section should also address the performance of any implementing entity. Proposed recommendations for modifying the RAMP should be included to this section.

#### **6.2.5.2.3 Cost Control Subsection**

The cost control subsection of the RAMP Annual Report provides current and year-to-date expenditures, cost overruns (if applicable), and summarizes cost control measures implemented related to the RAMP. Supporting documentation will show which government entities incurred future response costs as defined in Paragraph 25 of the CD and reimbursed pursuant to Paragraph 74 of the CD.

### **6.2.6 Five Year Review**

UPRR will conduct the Five Year Review of the effectiveness of the remedy pursuant to paragraph 36 of the CD and Section 2.7.3.12 of the SOW. As stated in Section 2.7.3.12 of the SOW, the review will be conducted no less than every five years after the certification of the completion of obligation reports for elements of work, except for the M&R element of work.

EPA, the Tribe, and State will oversee and participate in the Five Year Review process. All participants should be familiar with relevant objectives, documents, data and other information pursuant to the response action and M&R Plan.<sup>18</sup> Participants should also be familiar with the response action objectives, performance objectives, O&M status, institutional controls, and Applicable or Relevant and Appropriate Requirements (ARARs).

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<sup>18</sup>Relevant documents for the Five Year Review may include, e.g., the CD, SOW, EE/CA, work plans for the elements of work, M&R Plan, Monthly Progress Reports, Semi-Annual M&R Reports, Annual M&R Summary Reports, previous Five Year Review reports, and RAMP Annual Reports.

The Five Year Review will address the entire ROW, with a focus on where barriers were installed to contain and control contaminants. The purpose is to assure that human health and the environment are protected by the response action implemented where contaminants remain on-site.

The applicable guidance documents for performing the Five Year Review, as listed in the SOW, include the Office of Solid Waste and Emergency Response (OSWER) directive number 9355.7-03B-P, “Comprehensive Five Year Review Guidance.”<sup>19</sup> The specific contents for the Five-Year Review are provided in the OSWER directive number 9355.7-03B-P at Exhibit 3-3 on page 3-6.

As provided in Paragraph 56 of the CD, upon receipt of the Five Year Review Report submitted by UPRR, the members of the Government Group will review the document and take one---or any combination---of the following actions:

1. Approve the report in whole or in part.
2. Approve the report upon specified conditions.
3. Modify the report.

The Government Group can modify the report only after UPRR has been notified of deficiencies and provided an opportunity to correct them within 14 days. However, providing UPRR an opportunity to correct deficiencies in the Five Year Review Report is unnecessary if delay would cause a serious disruption to the work or where previous submissions have been disapproved due to material defects, and the deficiencies in the Five Year Review Report indicate a bad faith lack of effort to submit an acceptable Five Year Review Report.

4. Disapprove the report in whole or part, and direct UPRR to modify.  
UPRR will modify the report within the time period specified and resubmit (see Paragraphs 58 and 59 of the CD).

The Government Group may elicit assistance in reviewing the Five Year Review Report from other agencies of the federal,<sup>20</sup> state<sup>21</sup> and tribal governments, as well as technical experts<sup>22</sup> as required.

Further response actions may be identified as a result of the Five Year Reviews (see Section VII of the CD). If the Five Year Review determines that the response action is not protective of human health and the environment, EPA in consultation with the State and Tribe, may select further response actions for the Project Area defined in the CD in accordance with CERCLA and

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<sup>19</sup>OSWER directive number 9355.7-03B-P supercedes OSWER Directives 9355.7-02, 9355.7-02FS1, 9355.7-02A, 9355.7-03A and updates and supercedes OSWER Directive 9200.1-23P The latter directive is not listed in Section 2.7.3.12 of the SOW. The Five Year Reviews will be risk-based assessments relative to the protection of human health and the environment.

<sup>20</sup> Federal agencies include, e.g., the U.S. Fish and Wildlife Service, U.S. Geological Survey, U.S. Forest Service, Agency for Toxic Substances and Disease Registry, or U.S. Army Corps of Engineers.

<sup>21</sup>State agencies include, e.g., the Department of Water Resources, Department of Fish and Game, Panhandle Health District or Department of Health and Welfare.

<sup>22</sup>Technical experts include, e.g., construction representatives, engineers, hydrogeologists, chemists, risk assessors, biologists, ecologists, environmental regulatory specialists, and legal advisor.

the National Contingency Plan (NCP) requirements (*see* Paragraphs 36 and 37 of the CD). If further response actions are selected, the parties shall follow the processes identified in Paragraphs 38, 39, 40 and 56-61 of the CD regarding public comments and submittal, review, modification, approval and UPRR's and the governments rights, duties and obligations with respect to implementation of related work plans.

To the extent required by the CD, Future Response Costs associated with the Five Year Review will be reimbursed by UPRR. *See e.g.* Paragraphs 74, 75, and 76 and Paragraph 25 (definition of Future Response Costs) of the CD.

## **7.0 ADMINISTRATION**

### **7.1 Agreements with other parties to perform RAMP activities**

The State and Tribe may enter into agreements with qualified third parties as implementing entities to perform activities detailed in the RAMP. The State and Tribe may also enter into agreements with qualified local government entities, as necessary, for special assistance with operational duties, this may include local law enforcement along and adjacent to the ROW.

The State and Tribe retain the ultimate responsibility to implement the RAMP, regardless of whether they enter into an agreement with a third party. The State and Tribe will monitor the activities of any implementing entity to ensure that the terms of the RAMP are being implemented and enforced. If an implementing entity fails to meet the requirements of the RAMP, the State and/or Tribe may seek corrective measures or alternate implementation of such requirements.

### **7.2 Forms**

Forms of oversight activities will be completed and the forms and related records shall be maintained and made available to the State and Tribe.

The oversight inspection forms are provided in Appendix A. These forms may be revised upon mutual agreement by the State and Tribe. The forms may include the following information:

- Project name
- Brief project description
- Staff performing the inspection
- Inspection date
- Items inspected
- Acceptability of items inspected
- Schedule changes and reasons for such changes
- Notes on conversations held and with whom
- Photographs taken
- Samples collected
- Problems encountered

- Problems resolved
- Problems unresolved

### **7.3 Records Retention**

Each governmental entity shall maintain its own records for its RAMP Activities and reports. The following categories of documents shall be retained by the governments:

- General Correspondence
- Forms
- Logs/Field Notebooks
- Contractor Documents related to permits and licenses, including work plans, material certifications, material substitution requests, as-built and shop drawings, warranties, and permits;
- Engineering review documents, including requirements, directives and the engineer's comments
- Monthly Reports
- Semi-Annual Reports
- Bi-Annual Meeting Minutes
- Information compiled for the Joint Annual Program Audit, including the RAMP annual Report and UPRR Annual M&R Summary Reports
- Five Year Review Reports.

### **7.4 Program Budget**

The general budget for RAMP activities set forth in Paragraph 74 of the CD is as follows:

- By April 1 of each year, the State will provide UPRR with its budget for the following budget year (July 1 through June 30).
  - To the extent required by the CD, the UPRR will fund the first 2 quarters of the estimated budget for the State's Future Response Costs that are not inconsistent with the National Contingency Plan at a minimum of 45 days prior to the beginning of the budget year (July 1), unless UPRR contests such costs under Paragraph 75 of the Consent Decree
- Within 45 days of the end of each quarter, the State will provide UPRR with its actual response costs for that quarter.
  - To the extent required by the CD, UPRR will fund the State's 3<sup>rd</sup> and 4<sup>th</sup> quarters Future Response Costs not inconsistent with the National Contingency Plan at least 45 days prior to the start of each quarter, unless UPRR contests such costs under Paragraph 75 of the CD.
  - Funding for the 3<sup>rd</sup> and 4<sup>th</sup> quarters will be reconciled against actual response costs incurred in preceding quarters.

- To the extent required by the CD, UPRR will reimburse the Tribe for Tribal Future Response Costs not inconsistent with the National Contingency Plan, unless UPRR contests such cost under Paragraph 75 of the CD.
- The State/Tribe will send UPRR an accounting or invoices on a periodic basis which include a cost summary incorporating direct and indirect costs incurred by the State/Tribe and their contractors.
- To the extent required by the CD, UPRR will make payments within 45 days of receiving invoices from the Tribe in accordance with Paragraph 74 of the CD, unless UPRR contests such payments under Paragraph 75 of the CD.
- To the extent required by the CD, EPA oversight costs not inconsistent with the National Contingency Plan which are deemed Future Response Costs will be reimbursed in accordance with Paragraph 74 of the CD except as otherwise provided under Paragraph 75 of the CD.

By February 1 of each year, qualified implementing entities will provide the State (IDEQ and IDPR) and the Tribe (THWP and TRMP) with a budget estimate for the UPRR budget year (July 1 through June 30).

This budget estimate will identify the costs (labor, direct, subcontract, overhead) of performing RAMP activities, including oversight for remedy and non-M&R construction and Preventative Care Activities.

The budget for the State includes work performed by IDEQ and IDPR, as well as the estimated budget for the implementing entity. If applicable, the budget estimate provided by implementing entities will differentiate between Box ICP (Green Belt and Trail ICP activities are reimbursed by the State) and those portions of the RAMP that are a responsibility of UPRR under the CD.

Overhead costs will be presented in the invoice documentation.

In the case of surplus, the excess will be carried over into the next budget year. An adjustment to the annual budget may be made during the annual audit.

UPRR will provide a summary of its M&R costs in the Annual M&R Summary Report. The M&R costs will be itemized by labor, equipment and materials for each type and category of repair (see Section 6.2.5.1).

The Governments have requested that the UPRR M&R cost summary include either actual unit rates (e.g., per cubic yard for barrier materials, etc.) that are inclusive of all costs, or a breakdown of man hours and rates, material unit rates, and handling and placement costs, equipment rates whether purchased, leased, rented or reimbursed, and disposal costs. Although not obligated to do so, UP may provide the Governments with such additional information.

The State and the Tribe have developed cost estimates, shown in Appendix D, for the first five years of implementing the RAMP. The budget estimates for each entity included in Appendix D

are estimates only. Actual costs will depend on the level of activity and involvement by each entity.

## **7.5 Dispute Resolution**

Dispute resolution procedures were established by the CD.<sup>23</sup> The approach in the RAMP for resolving disputes among the governments is to use key elements of dispute resolution procedures provided by the CD. Dispute resolution procedures covered under RAMP include all issues related to implementation and oversight of the response actions and implementation of all other institutional controls provided under the RAMP.<sup>24</sup>

The dispute resolution process will operate as follows.

- IDEQ, IDPR, THWP and TRMP will use their best efforts to coordinate at comparable staff levels in order to foster consensus-based decision making and problem solving regarding implementation of the remedy.
- If disputes arise with respect to implementation of the RAMP which cannot be resolved at comparable staff levels of the State and Tribal entities by consensus, the dispute will be referred to the Government Group as a whole.
- If the Government Group is unable to resolve the dispute by consensus, it shall refer the dispute to the directors of IDEQ and Tribe's Lake Management Department together with a written characterization of the issue, any relevant documentation and other information which parties to the dispute submit for consideration.
- The directors will make a good-faith effort to resolve the dispute. If the directors are unable to agree, they shall refer the dispute to EPA to resolve in accordance with the CD's informal dispute resolution procedures. If informal dispute procedures are not successful, formal dispute resolution procedures under the CD will be utilized.

## **7.6 Modification Procedures**

It is the responsibility of the Government Group to consider and act upon any recommendation to modify the RAMP. Recommendations for modifying RAMP may be submitted by any member of the Government Group or UPRR.

The recommendation for modifications will be provided in written form, and include the following information:

- Who is making the recommendation for modification to RAMP.

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<sup>23</sup> Formal and informal dispute resolution procedures were established in CD ¶¶ 95-107.

<sup>24</sup> Dispute resolution procedures for issues concerning the operation and management of the Trail as a recreational facility which do not relate to the remedy will be handled as provided for in Section VI.E of the State-Tribe Agreement.

- Summary of the recommendation for modification including documentation necessary to show the need for the modification.
- Why the recommended modification is necessary.
- What RAMP activities the recommendation for modification impacts or involves. Where necessary, the recommendation will be related to specific paragraphs of the CD and sections of the SOW.
- How the recommendation for modification can be implemented and where necessary, how implementation will affect contracts with implementing entities (if any).
- The proposed schedule for implementation of the recommendation for modification.

It is the responsibility of the entity proposing the recommendation for modification to submit the recommendation to the IDEQ and THWP for inclusion at the next scheduled RAMP Bi-Annual Meeting. Recommendations must be received by IDEQ or THWP by April 15<sup>th</sup> or September 15<sup>th</sup> in order to be included in the RAMP Bi-Annual meeting that immediately follows. Recommendations to modify RAMP will be discussed and acted upon by the Government Group during the RAMP Bi-annual Meetings and in light of the information compiled for the joint annual program audit.

If the recommendation is urgent or requires a decision before the next scheduled Bi-Annual Meeting, the members of the Government Group will have a conference call to discuss the recommendation.

It is the responsibility of the entity initiating the recommendation to provide copies of the recommendation to all other members of the Government Group members and schedule the conference call.

Following the conference call, a summary will be prepared by the entity initiating the recommendation and distributed to other members of the Government Group for comment.

Comments on the summary of the conference call will be provided within 2 working days. The entity initiating the recommendation will make corrections, as necessary to the summary, based on the received comments, and provide a copy for inclusion in the next RAMP Annual Report.

Approved modifications to RAMP will be implemented as decided by the Government Group and recorded in the meeting minutes for the RAMP Bi-annual Meeting and joint annual program audit or conference call summary (for urgent needs); provided however that UPRR will not be required to implement any such modifications unless required to do so under the CD.

## 8.0 REFERENCES

CD. *United States of America and State of Idaho v. Union Pacific Railroad Company and Coeur d'Alene Tribe v. Union Pacific Railroad Company* (Case number 99-0606-N-EJL)

McCulley, Frick & Gillman, Inc. (MFG). 1999. Maintenance & Repair (M&R) Plan, Attachment E to the Statement of Work for the Union Pacific Railroad Wallace-Mullan Branch Response Action, December 1999.

MFG. 1998. Response Action Design Report for the Union Pacific Railroad Wallace-Mullan Branch Response Action, July 1998.

MFG. 1999. Engineering Evaluation/Cost Analysis for the Union Pacific Railroad Wallace-Mullan Branch Response Action, January 18, 1999.

MFG. 1999. Flood Damage Repair Work Plan, Attachment B to the Statement of Work for the Union Pacific Railroad Wallace-Mullan Branch Response Action, June 1999.

MFG. 1999. Response Action Work Plan for the Removal, Disposal and Protective Barriers Elements of Work of Attachment C to the Statement of Work for the Union Pacific Railroad Wallace-Mullan Branch Response Action, December 1999.

MFG. 1999. Response Action Design Drawings, Attachment D to the Statement of Work for the Union Pacific Railroad Wallace-Mullan Branch Response Action, December 1999.

MFG. 1999. Project Material and Placement Specifications, Attachment G to the Statement of Work for the Union Pacific Railroad Wallace-Mullan Branch Response Action, December 1999.

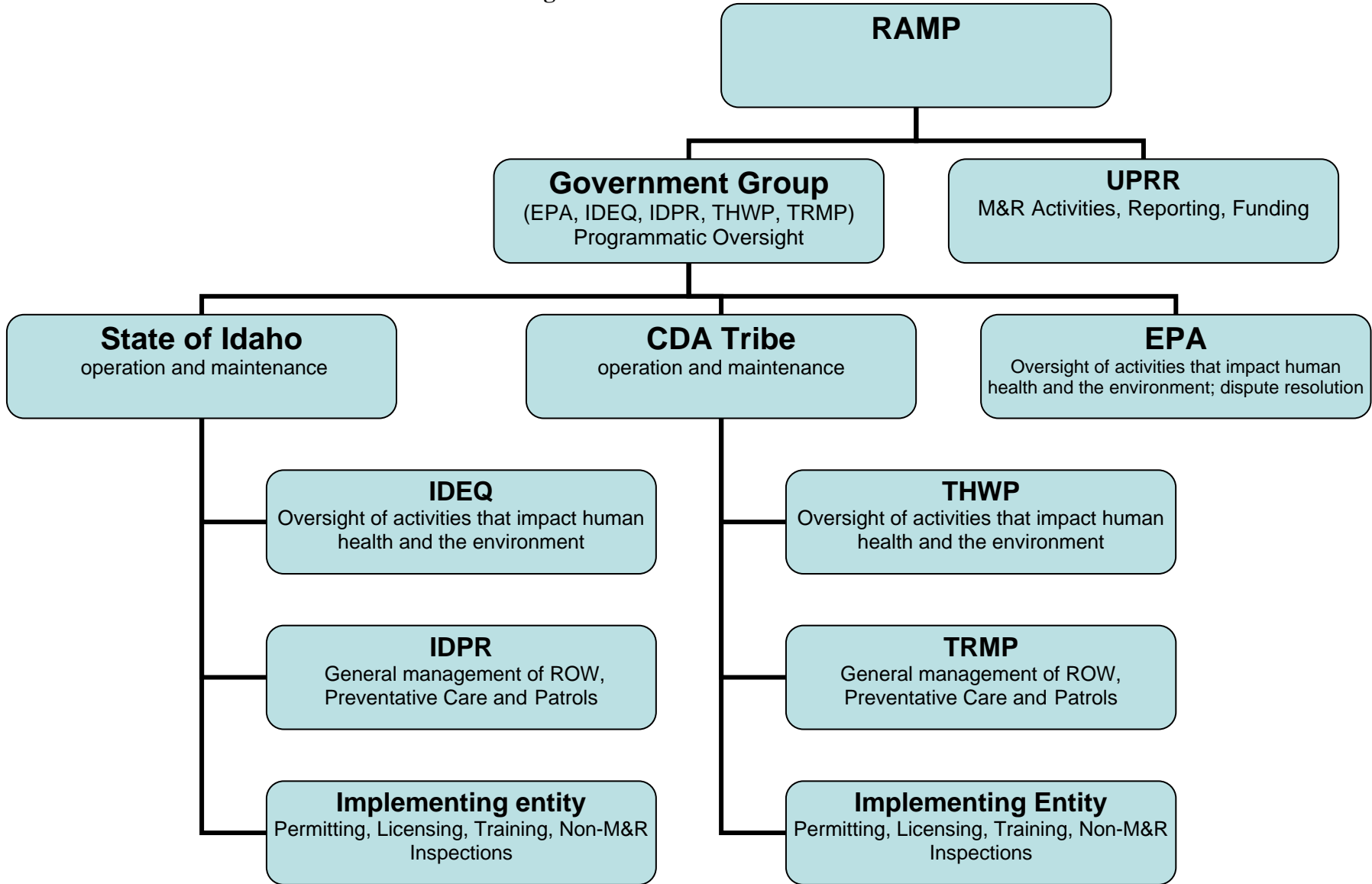
MFG. 2001. Trail Work Plan, July 2001.

MFG. 2002. Residential Use Areas Work Plan, January 2002.



## FIGURES

Figure 1 RAMP ORGANIZATION



## TABLES

**Table 1 -- RAMP ACTIVITIES CHART**

- Unless otherwise noted, activities are on an as needed basis.
- “IE” – Implementing Entity that the State and Tribe intend to contract with to provide identified activities

CATEGORY	ACTIVITY	EPA	STATE			TRIBE			
			IDEQ	IDPR	IE	THWP	TRMP	IE	
<b>Barrier</b>	Routine/Incident – Monitor the conditions of the protective barriers, compliance with the M&R Plan and the need for additional repairs. Notify IDEQ or THWP, as necessary, of conditions requiring their respective oversight or consultation on human health and the environment.			X			X		
	Record and maintain data on Barriers, including completing incident logs and oversight forms, and share data and records with State or Tribe. Log and form entries will include 1) M&R and non-M&R oversight activities, 2) preventative care activities, 3) sampling and 4) any other barrier observations made during patrols. Supporting documentation could include photos and oversight forms. Attach supporting documentation as needed.				X			X	
	Recommend modifications to oversight activities and the M&R Plan based on observations and sampling data. Submit recommendations to Government Group.		X	X		X	X		

CATEGORY	ACTIVITY	EPA	STATE			TRIBE		
			IDEQ	IDPR	IE	THWP	TRMP	IE
	Perform oversight of UPRR inspections for scheduled and unscheduled M&R activities. Inspections of scheduled M&R activities shall initially be conducted on a quarterly basis and may be reduced in subsequent years. Where needed, inspections may include collecting and analyzing samples to ensure M&R compliance and barrier performance. Monitor UPRR's sampling of its construction material.		X	X		X	X	
	Guide activities by UPRR as necessary to ensure protection of human health and the environment. Assess damage repair options for unscheduled M&R activities.		X	X		X	X	
	Complete oversight forms to document inspections and repair work conducted by UPRR. Record and maintain data on oversight activities and make the data and records available to the State and Tribe.			X			X	
	Monitor data and related records, as requested or warranted, to ensure proper barrier maintenance.		X			X		
	Bi-Annually -- Review information related to M&R and non-M&R construction activities and oversight.		X	X		X	X	

CATEGORY	ACTIVITY	EPA	STATE			TRIBE		
			IDEQ	IDPR	IE	THWP	TRMP	IE
<b>Preventative Care Activities</b>	Routine/Incident -- Monitor ROW conditions and, as needed, recommend to IDEQ, THWP or UPRR any repairs or corrections that may be needed between regularly scheduled M&R activities. Record and maintain data on preventative care activities and make data and records available to the State and Tribe.			X			X	
<b><u>Category I</u></b>	Implement minor repairs (Category I) with notice to UPRR (oral or email). If necessary, utilize “clean” replacement materials and central disposal containers. If repair exceeds capability of IDPR or TRMP, report the problem to IDEQ or THWP. If the repair exceeds capability of the agencies and immediate action is not required, continue to monitor the condition.			X			X	
<b><u>Category II</u></b>	Report non-emergency M&R type repairs (Category II) to UPRR for inclusion in its M&R activities. Follow up with UPRR to ensure timely repairs are completed.			X			X	
<b><u>Category III</u></b>	<i>Immediately</i> report any condition that present an immediate threat to human health or the environment (Category III) to UPRR, IDEQ and THWP.			X			X	

CATEGORY	ACTIVITY	EPA	STATE			TRIBE		
			IDEQ	IDPR	IE	THWP	TRMP	IE
<b><u>Categories I – III</u></b>	Bi-Annual – review data and records on preventative care activities to confirm adequate measures are being implemented by IDPR, TRMP and UPRR.		X			X		
<b><u>Category I</u></b>	For Category I activities, where the activity exceeds IDPR or TRMP’s capability notify UPRR, EPA, IDEQ and THWP of the location, nature and extent of the Trail segment requiring maintenance. Direct IDPR or TRMP to continue to monitor the condition. Record action taken and make data and related records available to the State and Tribe.		X			X		
<b><u>Category III</u></b>	Oversee Category III activities performed by UPRR. To the extent that the M&R Plan does not adequately address the nature of the failure, coordinate with UPRR and select an appropriate repair plan.	X	X			X		
<b>Land Use Changes</b>	Routine/Incident -- Monitor land use changes along the ROW and, as needed, log any changes in incident log and notify the agency with primary management responsibility. Record and maintain data and make available to the State and Tribe.			X	X		X	X
	Confirm any observed or reported land use change. Notify UPRR of any findings.	X	X			X		
<b>Licensing</b>	Provide a licensing training for persons wishing to conduct non-M&R construction work projects				X			X
	Issue license and maintain records for each license				X			X
	Provide procedures for revocation of licenses if needed				X			X

CATEGORY	ACTIVITY	EPA	STATE			TRIBE		
			IDEQ	IDPR	IE	THWP	TRMP	IE
	Bi-annual – Review licensing activities to confirm proper implementation.		X	X		X	X	
Permitting	Receive prior notice of all non-M&R construction work on the ROW. If appropriate, issue authorization including requirements provided in the RAMP			X			X	
	Provide and administer permitting process in accordance with the RAMP ICP (Appendix C).				X			X
	Approve and issue permits				X			X
	Provide training, if needed, for permittees.				X			X
	Identify off-site disposal repositories for contaminated materials.				X			X
Provide notification to UPRR of potential work on the ROW and the M&R impacts of that work, especially when a major construction-related disturbance of installed barriers or Trail features will occur.				X			X	



CATEGORY	ACTIVITY	EPA	STATE			TRIBE		
			IDEQ	IDPR	IE	THWP	TRMP	IE
	Inspect non-M&R construction projects to confirm proper licensing and permitting and that any barriers, access controls, etc. that are disturbed by the construction project are restored to a condition that complies with the SOW and related documents. This includes collecting and analyzing samples from work areas and construction materials to ensure proper compliance.				X			X
	Guide activities conducted as necessary to ensure protection of human health and the environment.				X			X
	Complete oversight forms to document construction work. Record and maintain data related to oversight of Non-M&R Construction and make data and related records available to the State and Tribe.				X			X
	Bi-annual – Review permitting activities to confirm proper implementation.		X	X		X	X	
<b>Trail Features</b>	Routine/Incident -- Patrol and monitor ROW for 1) any damage or replacement needs related to trail features; 2) compliance with use and access measures in the SOW and RAMP and 3) unauthorized uses that may indicate a need for additional access controls. Record observations in incident logs. Maintain data and all related records and make available to the State and Tribe.			X			X	
	If appropriate, recommend to the Government Group, modifications to access controls and perform approved modifications as part of routine Trail operations.			X			X	

CATEGORY	ACTIVITY	EPA	STATE			TRIBE		
			IDEQ	IDPR	IE	THWP	TRMP	IE
	Bi-Annually and as needed, review data related to trail features. Determine if additional trail features and access controls are needed to discourage improper ROW use. If appropriate, recommend modifications to the Government Group and report to UPRR as needed.		X			X		
<b>Community Relations</b>  <i>Resident and Trail User Education</i>	Jointly develop, implement and coordinate Trail user and resident education programs, including brochures, pamphlets and public presentations. This includes 1) mailings to local communities during construction activities and at regular intervals thereafter; 2) posting information regarding proper trail use; and 3) conducting joint public presentations.		X	X		X	X	
<i>Trail Staff Training</i>	Provide training program for State and Tribal staff working on the ROW. This includes 1) scheduling classes, 2) providing the staff supervisor with an educational packet prior to the course, 3) conducting the training classes, 4) administering an exam at the end of the course, and 5) certifying those employees who successfully complete the training. Certificate is good for one year.				X			X
	Review staff training program and ensure trail staff have successfully completed training and received certificate. Maintain all training records and certificates issued.			X			X	

CATEGORY	ACTIVITY	EPA	STATE			TRIBE		
			IDEQ	IDPR	IE	THWP	TRMP	IE
<b>Contractor Training</b>	Provide training courses for non-M&R contractors. This includes 1) scheduling classes, 2) providing the representative of the contractor with an educational packet prior to the course, 3) conducting the training classes, 4) administering an exam at the end of the course, and 5) certifying those contractors who successfully complete the training. Certificate is good for one year. May provide annual certificate renewals of contractor through a video refresher course which includes a mail in test for contractors who have been successfully licensed for a year and demonstrated compliance with established guidelines and program requirements.				X			X
	For violating contractors, work with contractor to bring into compliance and recommend to the managing agency whether the contractor's license should be revoked. May also recommend that the managing agency require the contractor obtain a bond and complete additional training before a new license is granted.					X		X
	Maintain all training records and certificates issued and make available to the State and Tribe.					X		X
	Review contractor training program and approve procedures consistent with RAMP requirements.			X			X	
<b>Reporting</b>	Routine/Incident – Record and maintain data from incident logs, oversight forms and other related records, if any, and share with State and Tribe.		X	X	X	X	X	X

CATEGORY	ACTIVITY	EPA	STATE			TRIBE		
			IDEQ	IDPR	IE	THWP	TRMP	IE
	Bi-Annual -- Identify and be prepared to discuss significant events and conditions at the RAMP Bi-Annual Meetings. This includes identifying information relevant to the program audit.	X	X	X	X	X	X	
	With UPRR, hold bi-annual meetings and discuss and decide recommendations and issues related to oversight of the barriers, trail features and community relations.	X	X	X	X	X	X	
	Annual -- For the second RAMP Bi-Annual Meeting, prepare and distribute to the Government Group a written summary of significant events and conditions handled by and/or observed by the agency. Written summary must be in a format conducive to producing the RAMP Annual Report.	X	X	X		X	X	
	By the end of the second RAMP Bi-Annual Meeting, develop a joint written summary of the issues addressed and decided by the Government Group during the year.	X	X	X		X	X	
	Jointly prepare the RAMP Annual Report. The RAMP Annual Report will be a compilation of the written summaries provided at the second Bi-Annual Meeting, which include remedy, administrative and cost control subsections. The RAMP Annual Report will also include the joint written summary completed at the second Bi-Annual Meeting and discussing the issues addressed and decided by the Government Group during the year.	X	X	X		X	X	
	Submit RAMP Annual Report to UPRR and the Government Group.	X	X	X		X	X	

CATEGORY	ACTIVITY	EPA	STATE			TRIBE		
			IDEQ	IDPR	IE	THWP	TRMP	IE
	Review UPRR's Monthly Progress Reports, Semi-Annual M&R Reports, Annual M&R Summary Reports and Five Year Reviews. Provide comments and guidance as necessary.	X	X	X	X	X	X	
<i>Invoicing</i>	Jointly submit budget estimates, invoices or accountings to UPRR, as appropriate under the CD, including budgets, invoices or accountings from the implementing entities. Although the invoices will be submitted at the same time, joint approval is not needed.		X			X		

## **Table 2 – General Schedule of Budgets and Reporting Activities---**

### **January**

- 1 - Beginning of the 3<sup>rd</sup> quarter of the budget year.
- 10 - UPRR provides Government Group with Monthly Progress Report for the previous month.
- 31< UPRR to conduct monthly M&R inspection prior to the end of the month

### **February**

- 1 - Implementing entity provide State with budget for the following budget year (July 1 through June 30).
- 10 - UPRR provides Government Group with Monthly Progress Report for the previous month.
- 14 - State provides UPRR with actual costs for the 2<sup>nd</sup> quarter of the budget year.
- 15 - UPRR provides State funding for the 4<sup>th</sup> quarter of the budget year.
- 28< UPRR to conduct monthly M&R inspection prior to the end of the month

### **March-**

- 10 - UPRR provides Government Group with Monthly Progress Report for the previous month.
- 31< UPRR to conduct monthly M&R inspection prior to the end of the month
- 31< IDPR/TRMP conduct oversight of scheduled M&R and complete oversight forms for the 1<sup>st</sup> quarter activities.

### **April**

- 1 - Beginning of the 4<sup>th</sup> quarter of the budget year
- 1 - State provides UPRR with budget for the following budget year (July 1 through June 30).
- 10 - UPRR provides Government Group with Monthly Progress Report for the previous month.
- 30< UPRR to conduct monthly M&R inspection prior to the end of the month
- 30< IDEQ/THWP/IDPR/TRMP review permitting and licensing practices and data and records related to RAMP activities in preparation for RAMP Bi-Annual Meeting.

### **May**

- 1 – 1<sup>st</sup> RAMP Bi-Annual Meeting
- 10 - UPRR provides Government Group with Monthly Progress Report for the previous month.
- 15 - State provides UPRR with actual costs for the 3<sup>rd</sup> quarter of the budget year.
- 17 - UPRR provides State funding for the 1<sup>st</sup> and 2<sup>nd</sup> quarters of the next budget year.
- 31< UPRR to conduct semi-annual M&R inspection (or as soon thereafter that spring flows have receded sufficiently to allow for complete inspection) This inspection is in lieu of the monthly inspection this month per Maintenance & Repair Plan, section 2.1.2.

### **June**

- 10 - UPRR provides Government Group with Monthly Progress Report for the previous month.
- 30< UPRR to conduct monthly M&R inspection prior to the end of the month
- 30< IDPR/TRMP conduct oversight of scheduled M&R and complete oversight forms for the 2<sup>nd</sup> quarter activities.

### **July**

- 1 - Beginning of the budget year and 1<sup>st</sup> quarter of the budget year
- 1 - UPRR provides Government Group with Semi-Annual M&R Report.
- 10 - UPRR provides Government Group with Monthly Progress Report for the previous month.
- 31< UPRR to conduct monthly M&R inspection prior to the end of the month

**August**

- 10 - UPRR provides Government Group with Monthly Progress Report for the previous month.
- 14 - State provides UPRR with actual costs for the 4<sup>th</sup> quarter of the previous budget year.
- 31< UPRR to conduct monthly M&R inspection prior to the end of the month

**September**

- 10 - UPRR provides Government Group with Monthly Progress Report for the previous month.
- 30< IDPR/TRMP conduct oversight of scheduled M&R and complete oversight forms for the 3<sup>rd</sup> quarter activities.
- 30 < UPRR to conduct semi-annual M&R inspection prior to end of the month. ) This inspection is in lieu of the monthly inspection this month per Maintenance & Repair Plan, section 2.1.2.

**October**

- 1 - Beginning of the 2<sup>nd</sup> quarter of the budget year.
- 1 - UPRR provides Government Group Annual M&R Summary Report for the previous year reporting period.
- 10 - UPRR provides Government Group with Monthly Progress Report for the previous month.
- 31< UPRR to conduct monthly M&R inspection prior to the end of the month

**November**

- 01< IDEQ/THWP/IDPR/TRMP review permitting and licensing practices and data and records related to RAMP activities in preparation for RAMP Bi-Annual Meeting.
- 01 < Government Group members write a summary of significant events and conditions to be submitted at the 2nd RAMP bi-Annual Meeting and included in the RAMP Annual Report
- 01 – 2<sup>nd</sup> RAMP Bi-Annual Meeting
- 10 - UPRR provide Government Group with Monthly Progress Report for the previous month.
- 14 - State provides UPRR with actual costs for the 1<sup>st</sup> quarter of the budget year.
- 17 - UPRR provides State funding for the 3<sup>rd</sup> quarter of the budget year.
- 30< UPRR to conduct monthly M&R inspection prior to the end of the month

**December**

- 01 – Government Group submits RAMP Annual Report.
- 10 - UPRR provides Government Group with Monthly Progress Report for the previous month.
- 31< UPRR to conduct monthly M&R inspection prior to the end of the month
- 31< IDPR/TRMP conduct oversight of scheduled M&R and complete oversight forms for the 4<sup>th</sup> quarter activities.

**Table 3. RAMP Implementing Entities Contact List**

Type of Entity	Contact	Telephone/Fax Number	Address/Email Address
Trail Operations & Management	Park Manager Idaho Department of Parks and Recreation	(208) 682-3814 (208) 682-4032 fax	P.O. Box 30, Cataldo, ID 83810 <a href="mailto:old@idpr.idaho.gov">old@idpr.idaho.gov</a>
	Recreation Program Manager Coeur d'Alene Tribe Recreation Management Program	(208) 686-5302 (208) 686-3021 fax	P.O. Box 408, Plummer, ID 83851 <a href="mailto:lakemanagement@cdatribe-nsn.gov">lakemanagement@cdatribe-nsn.gov</a>
Regulatory Agency	Ed Moreen U.S. Environmental Protection Agency	(208) 664-4588 (208) 664-5829 fax	1910 NW Blvd, Suite 208, Coeur d'Alene, ID 83814 <a href="mailto:Moreen.Ed@epamail.epa.gov">Moreen.Ed@epamail.epa.gov</a>
	Nick Zilka Idaho Department of Environmental Quality	(208) 783-5781 (208) 783-4561 fax	1005 W McKinley, Kellogg, ID 83837 <a href="mailto:Nicholas.Zilka@deq.idaho.gov">Nicholas.Zilka@deq.idaho.gov</a>
	Program Manager Tribe Hazardous Waste Management Program	(208) 667-5772 (208) 667-0919 fax	424 E. Sherman Ave., Ste. 306, Coeur d'Alene, ID 83814 <a href="mailto:lakemanagement@cdatribe-nsn.gov">lakemanagement@cdatribe-nsn.gov</a>
ICP Oversight	Jerry Cobb Panhandle Health District	(208) 783-0707 (208) 783-4242 fax	114 W Riverside Ave., Kellogg, ID 83837 <a href="mailto:jcobb@phd1.state.id.us">jcobb@phd1.state.id.us</a>
Remedy Maintenance & Repair	Gary Honeyman UPRR	(307) 745-6532 (307) 745-3042 fax	221 Hodgeman, Laramie, WY 82070 <a href="mailto:glhoneym@up.com">glhoneym@up.com</a>

**Table 4. Emergency Contact List**

Type of Entity	Contact	Telephone Number
Environmental Emergency	EPA National Response Center Hotline	(800) 424-8802
	Idaho State Communications Hotline	(800) 632-8000
	Idaho Department of Environmental Quality, Coeur d'Alene Regional Office	(208) 769-1422
	Coeur d'Alene Tribe Hazardous Waste Program	(208) 667-5772
	Panhandle Health District	(208) 783-0707



Medical Emergency	Local Ambulance	911
	Shoshone Medical Center (Exit 49 off Interstate 90; Jacobs Gulch Road, Kellogg)	(208) 784-1221
	Kootenai Medical Center (Exit 12 off Interstate 90; 2003 Lincoln Way, Coeur d'Alene)	(208) 666-2000 800-562-9608
	Benewah Medical Center (1115 B Street, Plummer)	(208) 686-1931
	Benewah Community Hospital (229 7 <sup>th</sup> Street, St. Maries)	(208) 245-5551
Fire Emergency	Local Fire Department	911
Police Emergency	Local Police Department	911

**Table 5. Operations Contact List**

Type of Entity	Contact	Telephone Number	Location
City Government	City of Plummer	(208) 686-1641	880 C Street
	City of Harrison	(208) 689-3212	100 E Frederick Drive
	City of Pinehurst	(208) 682-3721	106 North Division
	City of Smelterville	(208) 786-3351	501 Main Street
	City of Kellogg	(208) 786-9131	323 Main Street
	City of Osburn	(208) 752-0001	921 East Mullan Avenue
	City of Wallace	(208) 752-1147	703 Cedar Street
	City of Mullan	(208) 744-1515	112 Earle Street
County/Tribal Government	Shoshone	(208) 752-1264	700 Bank Street, Wallace
	Kootenai	(208) 446-1600	451 Government Way, Coeur d'Alene
	Benewah	(208) 245-2234	701 College Avenue, St. Maries
	Coeur d'Alene Tribal Headquarters	(208) 686-1800	850 A Street, Plummer
General Police	Idaho State Police	(208) 772-6055	602 West Prairie, Coeur d'Alene

Type of Entity	Contact	Telephone Number	Location
	Coeur d'Alene Tribal Police	(208) 686-0137	850 A Street, Plummer
	Shoshone County Sheriff	(208) 556-1114	717 Bank Street, Wallace
	Benewah County Sheriff	(208) 245-2555	701 College Avenue, St. Maries
	Kootenai County Sheriff	(208) 446-1300	North 5500 Government Way, Coeur d'Alene
Agency	U.S. Forest Service – Coeur d'Alene District Ranger	(208) 752-1221	Exit 60 off Interstate 90, Silverton
	U.S. Forest Service – Panhandle District	(208) 765-7223	3815 Schreiber Way, Coeur d'Alene
	U.S. Fish and Wildlife Service – Coeur d'Alene Basin Natural Resource Damage Assessment	(509) 891-6839	11103 East Montgomery Drive, Spokane
	U.S. Fish and Wildlife Service – Resident Agent	(208) 378-5333	1387 South Vinnell Way Suite 341, Boise
	U.S Bureau of Land Management	(208) 769-5000	1808 North 3 <sup>rd</sup> , Coeur d'Alene
	Idaho Department of Fish and Game	(208) 769-1414	2750 Kathleen Avenue, Coeur d'Alene
	Idaho Dept. of Parks and Rec. – Northern HQ	(208) 769-1511	2750 Kathleen Avenue, Coeur d'Alene
	Idaho Dept. of Parks and Rec. – Heyburn State Park	(208) 686-1308	1291 Chatcolet Road, Plummer
	Idaho Dept. of Parks and Rec. – Old Mission Park	(208) 682-3814	Exit 39 off Interstate 90, Cataldo
	Idaho Department of Water Resources	(208) 679-1450	1910 Northwest Blvd, Coeur d'Alene
	Idaho Transportation Dept. - District Office	(208) 772-1200	600 W. Prairie, Coeur d'Alene

**APPENDIX A**  
**INCIDENT LOG AND OVERSIGHT FORMS**

**INCIDENT LOG**

Oversight	Log	Record No	Inspector	Agency	Date	Time
<input type="checkbox"/>	<input type="checkbox"/>	0				
Guests		Location		Ambient Conditions		
Monthly ME	Semi-Annual M	Event Driven	Non-ME Construction	Unauthorized Use	Unauthorized Acces	Other
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barrier Surfaces		Asphalt Trail	Access Controls			
Activity observed or conducted						
Conversation						
Conv Name, Address, Phone						
Project Name		Permit	License	Lease AUD No		
Project Description						
Contractor Name						
Additional comments						
Recommended action						
Preventative Care	Category I	Category II	Category III			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Follow-up	Follow-up completed	Follow-up Comments				
<input type="checkbox"/>	<input type="checkbox"/>					

**Remedy M&R Oversight Form (Page 1 of 2)**

Inspector:		Date:	
<input type="checkbox"/> Monthly (UPRR)	<input type="checkbox"/> Semi-annual (UPRR)	<input type="checkbox"/> Event Driven (UPRR)	<input type="checkbox"/> Preventative (Parks/Tribe)
Items Inspected	General Observations	Locations of Required Action (unacceptable criteria)	Comments
Asphalt			
Gravel			
Soil			
Vegetation			
Rock			
Bollards			
Fences			
Culverts			
Drainage			
Bridges			
Embankments			
Weeds			
Post and Chains			
Signs			
Other			
Evidence of unauthorized use:			
Evidence of unauthorized access:			
Evidence of recontamination:			
Unusual conditions:			

<b>Remedy M&amp;R Oversight Form (Page 2 of 2)</b>	
Inspector:	Date:
Project Name:	Contractor Name:
Project Description:	
Site Control:	Material Handling:
Decontamination:	Disposal:
Samples collected:	Final Barrier:
Schedule changes and Why:	
Problems and Resolution:	
Photographs taken:	
Conversations:	

<b>Non-M&amp;R Construction Oversight Form (Page 1 of 2)</b>			
Inspector:		Date:	
Items Inspected	General Observations	Locations of Required Action	Comments
Asphalt			
Gravel			
Soil			
Vegetation			
Rock			
Bollards			
Fences			
Culverts			
Drainage			
Bridges			
Embankments			
Weeds			
Post and Chains			
Signs			
Other			
Evidence of recontamination:			
Unusual conditions:			
Additional comments or concerns:			

<b>Non-M&amp;R Construction Oversight Form (Page 2 of 2)</b>	
Inspector:	Date:
Project Name:	Contractor/Utility Name:
Project Description:	
License:	Permit:
Site Control:	Material Handling:
Decontamination:	Disposal:
Samples collected:	Final Barrier:
Schedule changes and Why:	
Problems and Resolution:	
Photographs taken:	
Conversations:	



**TRAIL LONG-TERM OVERSIGHT PROGRAM  
NON-COMPLIANCE FORM**

Non-Compliance Form Number: \_\_\_\_\_

Project: \_\_\_\_\_

Project Location: \_\_\_\_\_

Date Issued: \_\_\_\_\_

Time Issued: \_\_\_\_\_

Issued by: \_\_\_\_\_

Signed: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Title: \_\_\_\_\_

To: \_\_\_\_\_

Received by: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

The following item(s) is/are in non-compliance with requirements designated in the RAMP manual. Corrective Action is to be undertaken immediately.

Description:

Contractor's Corrective Action Proposal:

Contractor/Utility Project Manager: \_\_\_\_\_  
\_\_\_\_\_

Date:

Corrective Action Compliance: the Contractor has complied with the corrective action proposal. The remedial work has been inspected and accepted.

Implementing entity: \_\_\_\_\_

Date: \_\_\_\_\_

Distribution:

Implementing entity File

Contractor/Utility

## **APPENDIX B M&R PLAN FAILURE CRITERIA**

The following failure criteria are outlined in the M&R Plan. Any discrepancies or conflicts between this Appendix and the M&R Plan, SOW or CD will be resolved in favor of the M&R Plan, SOW or CD.

- failure criteria for asphalt barrier
  - potholes exposing >0.5 square feet of underlying base
  - other failures exposing >0.5 square feet of underlying base
  - any failure penetrating >2 inches into underlying base
  - evidence of recontamination
  - vegetation encroachment into asphalt
  - shoulder gravel eroded, settled, missing exposing 2.5 inch ACP > 2 feet in length
  - edge of ACP broken or cracked
  - cracks >1/2 inch wide and >2 feet long (semi-annual)
  - >6 square feet exhibiting alligator cracking (semi-annual)
  - potholes exposing >12 square inches of underlying base (semi-annual)
  
- failure criteria for gravel barrier
  - exposed underlying visual marker
  - indications of mass movement
  - evidence of recontamination
  - erosion rills, ruts, etc. penetrating >50% of design thickness
  - erosion rills, ruts, etc. having a depth >2 inches over a 10 foot length within a given 25 square foot section (semi-annual)
  
- failure criteria for rock barrier
  - missing or displaced rock exposing >1 square foot of underlying geotextile
  
- failure criteria for soil/vegetative barrier
  - indications of mass movements
  - evidence of recontamination
  - erosion rills, ruts, etc. penetrating >50% of design thickness
  - >15 continuous square feet of bare soil
  - <85% cover by point-intercept method
  - erosion rills, ruts, etc. having a depth >2 inches over a 10 foot length within a given 25 square foot section (semi-annual)
  
- failure criteria for access controls
  - missing or destroyed controls
  - damage impairing intended purpose
  - indications of side Trail development to suspected or known areas of contamination
  - indications of unauthorized access damaging barrier

- failure criteria for culverts - semi-annual
  - blockage by debris, sediment, sloughing or caving resulting in >20% blockage of cross section
  - damage resulting in cross section reduced by >20%
  - eroded aprons
  - by-pass flow
  
- failure criteria for embankment - semi-annual
  - aerial extent of slope erosion >100 square feet
  - erosion rills >6 inch depth over 25 foot length
  - mass movement
  
- failure criteria at bridge structures - May (event driven also)
  - debris accumulation
  
- failure criteria for drainage channels
  - obstructions or sedimentation in channels causing flow to encroach onto barrier
  - other drainage out-falls causing flow to encroach onto barrier
  
- failure criteria for weed control
  - > 10% of vegetation within any 15 contiguous square feet of barrier consists of one or more of the species listed as Noxious Weed Species by Benewah, Kootenai or Shoshone Counties
  
- failure criteria for vegetation
  - > 15 contiguous square feet of bare area
  - <85% cover as determined by the point-intercept method
  - plant survival

**APPENDIX C**  
**RAMP ICP**

## RAMP ICP

### **500. Trail of the Coeur d'Alenes Institutional Control Program Requirements for Non –Maintenance and Repair Construction Activities**

**01. Legal Authority.** The Implementing Entity shall adopt and implement, in substantial conformance as determined by the State and the Tribe, these Requirements through contractual, regulatory or other appropriate authority.

**02. Purpose.** The purpose of these Requirements is to ensure that activities associated with excavation and grading such as infrastructure development and maintenance; building construction and renovation; and land development, redevelopment and/or modification within the boundaries of the Trail provide for the construction and maintenance of Contaminant Barriers and implementation of other Contaminant management Requirements to preclude the release and migration of and human exposure to Contaminants as necessary to protect the public health and the environment. It is imperative that current and future development and construction activities proceed in a manner which minimizes the release of Contaminants into the environment to minimize exposure to residents, communities, and to workers involved in project work.

**03. Implementation Policy and Standards.** Implementation policy and standards which pertain to the interpretation and enforcement of these Requirements or to the documentation of compliance with these Requirements will be developed by the Implementing Entity.

**04. (Reserved)**

**05. Definitions.** The following terms shall be construed throughout these Requirements in a manner consistent with these definitions:

**a.** Agricultural Land - Land used for pasturing animals or for cultivation and production of agricultural crops including conservation reserve activities.

**b.** Applicant - Any person, contractor, public utility, government or other entity that is required to apply for an Institutional Controls Program (ICP) Permit.

**c.** Access Restrictions - Physical barriers and features such as fences , barricades, curbs, barrier rocks, trenches, signs, etc. that restrict access by vehicles, pedestrians, and animals to contaminated areas.

**d.** Barrier - Any physical structure, material or mechanism installed pursuant to these Requirements or the Consent Decree which acts to break the pathway between Contaminants and human receptors, including but not limited to soil, asphalt and Portland cement concrete, fences, access restrictions, or other structure or covering which separates Contaminants from contact with people or keeps Contaminants in place.

**e.** B.O.P - Barrier Option Plan, a plan which will be provided by an

Applicant, when required, that sets forth the location and type of Barrier which the Applicant intends to construct as part of the permitted work.

**f.** Building Construction - Construction activity to be performed for any new structure involving disturbance of soil in excess of one cubic yard.

**g.** Building Renovation - Construction activity to be performed on any existing structure involving ceiling or insulation removal, work in dirt crawl spaces or basements, or disturbance of soil in excess of one cubic yard.

**h.** CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act.

**i.** Commercial Property - Retail, wholesale and secondhand businesses, public use areas and common use areas, and public buildings.

**1.** Type I - Commercial Property predominantly used by Sensitive Populations (e.g. daycare facilities, municipal parks, playgrounds, etc.)

**2.** Type II - All other Commercial Property.

**j.** Consent Decree – The Consent Decree entered August 25, 2000 by the United States District Court for the District of Idaho (Case Nos. 91-0342 and 99-606).

**k.** Contaminants - Soil or other material containing, or likely to contain, concentrations of lead equal to or greater than 1000 ppm (700 ppm within a Developed Recreation Area) or concentrations of arsenic equal to or greater than 100 ppm.

**l.** Developed Recreation Area - Commercial and public recreation areas containing constructed features such as boat ramps, picnic areas, and campgrounds within the Trail. The Developed Recreation Areas of the Trail includes all constructed trail surfaces, stop and views, oases (rest stops) and trailheads but does not include other undeveloped areas within the right of way.

**m.** Disposal - The placement of Contaminants into an authorized permanent repository.

**n.** Excavation - Any digging, breaching or disruption of soil not including cultivation of Agricultural Lands or gardens which may release or expose Contaminants to the environment.

**o.** ICP - The Institutional Controls Program requirements for non-maintenance and repair construction activities for the Trail.

**p.** ICP Permit - The Contaminant management authorization for projects subject to these Requirements.

**q.** Implementing Entity -The State and the Tribe for the respective portions of the Trail owned and managed by each or, as designated by the State and the Tribe, other appropriate governmental entity or contractor.

**r.** Large Project - A project where one cubic yard or more of soil containing Contaminants is disturbed or removed. Large Projects include, but are not limited to, infrastructure construction and maintenance, building construction, renovation, and demolition, land development or any change in the use of land that may result in the release or migration of Contaminants.

**s.** Record of Compliance - The record maintained by the Implementing Entity pursuant to Section 523 of these Requirements for Small Projects.

**t.** Release - Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Contaminants into the environment.

**u.** Residential Property - Property used by private individuals or families as a residence.

**v.** Sensitive Populations - Pregnant women and children up to 12 years old.

**w.** Small Project - A project where less than one cubic yard of soil containing Contaminants is disturbed or interior work that is not Building Renovation.

**x.** State – The State of Idaho and its appropriate departments or sub-agencies

**y.** Trail of the Coeur d’Alenes or Trail or Trail Area – All Developed Recreation Areas and other undeveloped areas within the former Union Pacific Railroad Mullan and Wallace Branch rights of way.

**z.** Tribe – The Coeur d’Alene Tribe and its appropriate departments or sub-agencies.

**aa.** Working day - Monday through Friday, but shall not include any legal holiday recognized as such by the State of Idaho or Coeur d’Alene Tribe, as applicable

**06. Statement of Intent.** These Requirements establish standards for Barrier construction and maintenance, and other Contaminant management practices. These Requirements govern management of Contaminants by:

**a.** Requiring ICP Permits and requiring Barriers for certain construction and excavation activities;

**b.** Licensing contractors, utilities, and governmental entities which may disrupt or construct Barriers, or otherwise disturb Contaminants;

- c. Adopting performance standards;
- d. Inspecting for project compliance as required;
- e. Regulating the movement and disposal of Contaminants;
- f. Making it unlawful to knowingly disrupt a Barrier in a fashion likely to expose persons to Contaminants;
- g. Maintaining records of ICP activities.

**07. Additional Provisions by Implementing Entity.** In conjunction with these Requirements the Implementing Entity may, depending on project size and complexity, provide, as needed:

- a. Technical assistance and soil testing;
- b. Health screening and intervention;
- c. Readily available repositories for disposal of Contaminants;
- d. Clean material to restore Barriers for Small Projects;
- e. Disposal containers for Small Projects to assist in removal, transportation and disposal of contaminated soil;
- f. Health and safety information and education to licensees, permit applicants and the public;
- g. Sheet plastic, crushed aggregate and gravel, or other items as appropriate;
- h. A database tracking system.
- i. Guidelines for managing Contaminants.

**501. – 509. (RESERVED)**

**510. APPLICATION OF REQUIREMENTS**

These Requirements shall apply to the Trail Area. These Requirements shall not apply to the Union Pacific Railroad or its contractors when conducting activities within the Trail Area.

**01. Standards Adopted.**

- a. Except as otherwise provided in this Section, Contaminant management is



required on all areas within the Trail including areas that have been remediated; areas not yet tested; and areas testing below action levels in the top 18 inches where Large or Small Projects may disturb Contaminants below 18 inches in excess of one thousand (1000) ppm lead or one hundred (100) ppm arsenic. Contaminant management may include testing of untested areas by the Applicant; testing of deep soils (below 18 inches) by the Applicant where a project may result in deep excavations; and replacement and repair of Barriers in accordance with Section 510, subsection 02; or other management activities. Applicant performed soil testing will be conducted consistent with sampling and analytic procedures developed by the Implementing Entity.

**b.** Developed Recreation Areas with surface soil containing lead concentrations greater than 700 ppm lead and 100 ppm arsenic shall be capped pursuant to Section 510, subsection 02c.

**c.** Agricultural and undeveloped land within the Trail is exempt from these Requirements unless soil disturbing activities on these lands are likely to result in the release or migration of Contaminants from these lands.

**d.** All Barriers existing or hereinafter constructed shall be maintained and protected to original construction specifications.

**e.** No person shall conduct, except in accordance with these Requirements, any activity within the Trail which breaches a Barrier, may breach a Barrier, or disturbs a Barrier, or otherwise results in a threat to public health or the environment from the migration of Contaminants through tracking on tires or vehicles, visible airborne dust, excavation, transport, disposal, renovation, demolition, run-on or run-off from stormwater or in any other manner on areas remediated within the Trail and/or on areas not yet tested within the Trail.

## **02. Barriers; Construction and Maintenance Required.**

**a.** The minimum Barrier construction Requirements for Residential and Type I Commercial Properties are as follows:

i. All soil which contains lead equal to or in excess of one thousand (1000) ppm or arsenic equal to or in excess of one hundred (100) ppm and lies within twelve (12) inches of the final grade shall be removed and replaced with replacement material meeting the Requirements of Section 510, subsection 02d.

ii. Any such property with unrestricted access to an adjacent property not meeting the Requirements of Section 510, subsection 01a shall restrict access to such adjacent property.

**b.** The minimum Barrier construction Requirements for Type II Commercial Properties is a six (6) inch soil with vegetative cover barrier or six (6) inch crushed rock/gravel barrier or asphalt/Portland cement concrete cap. Excavation may be necessary for the installation of barriers to maintain grade or drainage Requirements.

c. The minimum Barrier construction Requirements for Developed Recreation Areas is a six (6) inch soil with vegetative cover barrier or six (6) inch crushed rock/gravel barrier or asphalt/Portland cement concrete cap. Excavation may be necessary for the installation of barriers to maintain grade or drainage Requirements.

d. All twelve (12) inch deep Barriers of soil or crushed rock/gravel required pursuant to the ICP which overlay soils having concentrations of lead equal to or greater than one thousand (1000) ppm or arsenic concentrations equal to or greater than one hundred (100) ppm shall have an underlying visual delineator at the twelve (12) inch depth. Visual delineators are not required if the soil underlying the Barrier has tested under one thousand (1000) ppm lead and one hundred (100) ppm arsenic. Cap Barriers such as Portland cement and asphalt concrete do not require delineators.

e. Soil and crushed aggregate/gravel imported for Barrier material shall contain less than one hundred (100) ppm lead, thirty five (35) ppm arsenic and five (5) ppm cadmium based on average of backfill sampling results. No single sample of replacement materials shall exceed one hundred fifty (150) ppm lead or forty five (45) ppm arsenic.

f. Barriers shall be maintained and repaired in accordance with original construction specifications.

g. Contaminated waste material generated in the construction, maintenance and repair of Barriers shall be disposed of in designated repositories as directed by Implementing Entity.

### **03. ICP Permits Required.**

a. Permits shall be required for Large Projects and Building Renovations.

b. A permit is required for a project which changes the use of a property containing Contaminants. A new Barrier or additional or more substantial Barrier may be required unless waived by the Implementing Entity.

c. A single annual permit covering a specific list of projects may be obtained from the Implementing Entity by entities eligible under Section 531 at the beginning of each year's construction season.

### **511. – 519. (RESERVED)**

### **520. PERMIT APPLICATION AND ADMINISTRATION.**

**01. Applications for ICP Permit.** Application for an ICP Permit shall be made in writing at the office of the Implementing Entity. Application shall be on forms provided by the Implementing Entity.

**02. Required Applicant Information.** All Applicants shall provide the following information when applying for an ICP Permit with the Implementing Entity:

- a. Name, address and telephone number of the Applicant.
- b. Location of the work and whether the work is being done on private or public property, or both.
- c. The description of work must include methods of handling or storing, and transporting contaminated materials. A site plan may be required by the Implementing Entity if one has not been provided pursuant to the permit process.
- d. Dates work will be started and completed.
- e. Such other information as the Implementing Entity shall require.
- f. A copy of the authorizing document from the government (State or Tribe) having primary authority for the area of the Trail where the work is to occur.

**03. Implementing Entity Requirements for Projects.** The Implementing Entity may require, as appropriate for a particular project, the following:

- a. Large Projects:
  - i. Name, signature, license number, seal and address of engineer, land surveyor, architect, professional planner, landscape architect, or contractor as applicable, involved in preparation of the application or any materials or documents pertaining thereto;
  - ii. Copies of other government permits, authorizations or permit applications and the supporting documents and materials pertaining thereto;
  - iii. A key map showing location of project with reference to surrounding properties including owners, streets and city boundaries;
  - iv. Existing and/or proposed zoning;
  - v. North arrow and scale;
  - vi. Site plan showing dimensions, boundaries, existing and/or proposed structures;
  - vii. Date of most recent property survey and copy of that survey;
  - viii. Standardized sheet size;
  - ix. Copies of existing and/or proposed restrictions or covenants;

- x. List of ordinance variances required or requested;
- xi. Requested or obtained design waivers or exceptions;
- xii. Identification of surrounding water courses, flood plains (floodway and 100 year floodplain), wetlands, and environmentally sensitive areas on-site and within 200 feet;
- xiii. Soil information as required to determine levels of contamination;
- xiv. Location and description of all existing Barriers onsite and bordering the site;
- xv. Barrier Option Plan, as required;
- xvi. Existing rights-of-way and/or easements on and adjacent to the tract (i.e. streets, utilities);
- xvii. Existing and proposed contour intervals based on U.S.G.S. datum, contours to extend 50 feet beyond the project site borders (additional distance may be required in the case of subdivisions and special use permit situations), contour intervals shall be as follows: for sites with slopes of less than 3% - 1 foot intervals; for sites with slopes of 3% to 10% - 2 foot intervals; for sites with slopes over 10% - 5 foot intervals;
- xviii. Existing system of site drainage and of any larger tract or basin of which the site is a part;
- xix. Drainage calculations;
- xx. Existing and proposed utility infrastructure locations;
- xxi. Locations of existing and/or proposed activities onsite (i.e. lawn, garden, landscaping areas, pathways, driveways, storage areas, structure locations, etc.);
- xxii. Soil erosion and sedimentation control plan if surface is to be disturbed;
- xxiii. Dust control plan if surface is to be disturbed;
- xxiv. Plan for transporting Contaminants, including but not limited to means for transportation, proposed disposal site and proposed route;
- xxv. Access control plan for construction period;
- xxvi. Construction schedule;
- xxvii. Contractor bonding information;

xxviii. Health and safety plan;

xxix. Reimbursement of professional fees paid by the Implementing Entity to evaluate a project proposal including but not limited to independent architectural and engineering fees.

**b. Building Renovations:**

i. Name, signature, license number, seal and address of engineer, land surveyor, architect, professional planner, landscape architect, or contractor as applicable, involved in preparation of the application or any materials or documents pertaining thereto;

ii. Type of contaminated material to be handled (i.e. soil, insulation etc.);

iii. Dust control plan;

iv. Access control plan;

v. Worker precautions (health and safety plan);

vi. Transportation information, including means, method of containment of materials, and proposed disposal site;

vii. Contractor bonding information;

viii. Construction schedule.

**04. Use of Discretion on Requirements by Implementing Entity.** The Implementing Entity may, at its discretion, waive certain application Requirements or information, or require additional or alternative actions or information, depending upon the type and extent of the project and conditions encountered. In no case shall the waiver violate the intent of these Requirements and/or the Consent Decree.

**05. Site Inspection or Waiver When ICP Permit Required.** Work which requires an ICP Permit shall not commence until a site inspection has been made or waived by the Implementing Entity and an ICP Permit has been issued.

**06. Time Specifications.** The ICP Permit shall provide that all work shall be completed within a specific period of time and the ICP Permit shall be void if work is not commenced and completed within the times specified. An extension of time may be granted by the Implementing Entity upon a showing of good cause.

**07. Other Inspections and Requirements.** All ICP Permits granted pursuant to these Requirements remain subject to such other inspections and requirements prescribed by state, tribe or local governments.

**521. INSPECTION.**

The Applicant shall notify the Implementing Entity by telephone when work is completed. Applicants shall call for inspection in accordance with the terms of the ICP Permit; 48 hours notice (excluding weekends and holidays) to Implementing Entity shall be provided. The inspector shall note approval of the work in writing and shall enter same in the database tracking system, or shall note reasons for disapproval and steps which must be taken to complete the work. Upon completion of the work to the Implementing Entity's satisfaction, the Implementing Entity's final approval shall be noted in the database tracking system. Such entry shall constitute the Record of Compliance for such project. All work governed by these Requirements shall be subject to inspection by the Implementing Entity or its designated agents. The Implementing Entity reserves the right to waive the inspection requirements.

**522. PERMIT REVOCATION OR STOP WORK ORDER.**

Any ICP Permit may be revoked or a stop Work Order may be issued, without notice by the Implementing Entity, for non-compliance with or violation of any of the provisions of these Requirements or any requirements or limitation of the ICP Permit. If an ICP Permit is revoked, the Implementing Entity may take such steps as are necessary to eliminate any danger from Contamination, including completion of work by the Implementing Entity. The Applicant or contractor may be required to pay all costs and expenses for abatement of any danger and/or completion of the project, including legal fees incurred by the Implementing Entity to obtain compliance. The Implementing Entity will endeavor to provide written notice, but shall reserve any right to act summarily to protect public health and the environment.

**523. RECORD OF COMPLIANCE FOR SMALL PROJECTS.**

A Record of Compliance for Small Projects which documents compliance with the performance standards established by these Requirements will be entered into the database tracking system based upon an inspection by the Implementing Entity. The Record signifies the person performing the project was notified of any applicable performance standards and guidelines and materially complied with the same.

**524. – 529. (RESERVED)**

**530. CONTRACTOR LICENSING**

**01. License Required.** Any contractor performing Large Projects or transportation or disposal of Contaminants which is likely to expose the contractor, workers or others to Contaminants, must be licensed by the Implementing Entity. There will be no charge for a contractor's license. A contractor shall be prohibited from working on a project requiring an ICP Permit without a current contractor's license issued by the Implementing Entity.

**02. Training.** In order to obtain a contractor's license from the Implementing Entity, the Contractor must have those supervisors involved in activities dealing with Contaminants participate in training approved by the Implementing Entity and pass an annual examination focusing on the reasons for, and methods of, controlling Contaminants. The purpose of the examination is to assure that all of the Contractor's employees are aware of and observe the

procedures and standards that will protect them and the public from the Contaminants. The Implementing Entity will create and administer the test. The trained Contractor's supervisor must pass information on to employees as is necessary to protect their health and safety and assure compliance with these Requirements. The Implementing Entity will provide or arrange for appropriate training.

**03. Bonding.** Any Contractor whose license has been revoked by the Implementing Entity within the past three years must, as a condition of reinstatement and maintaining the status of a licensed Contractor, be bonded in the minimum amount of Two Thousand Dollars (\$2000.00) or at least five percent (5%) of the cost of any contract the Contractor is engaged in, whichever is greater. Said bond shall be in a form approved by the Implementing Entity and must be suitable to insure payment for completion of Barrier work not completed by the Contractor. A cash deposit or other security acceptable to the Implementing Entity may be utilized in lieu of a bond. The Implementing Entity may establish a bonding program for all Contractors, if deemed necessary to carry out these Requirements.

**04. Suspension or Revocation of License.**

**a.** Upon a showing that a licensee has violated any provision of these Requirements, or has violated any other health or building code within the boundaries of the Trail, suspension or revocation of the license may be imposed. Suspension or revocation may be made by Implementing Entity. Notification of suspension or revocation shall be in writing.

**b.** Suspension or revocation may be appealed by the licensee to the Implementing Entity pursuant to procedures provided by the Implementing Entity.

**c.** If a license is revoked, the Contractor may, upon payment of any cleanup or remediation costs related to past work, reapply for reinstatement of license after one year, however, a contractor whose license has been revoked may not obtain a new license under a different corporate or partnership status until this provision is satisfied.

**531. LICENSE FOR PUBLIC UTILITIES AND GOVERNMENT ENTITIES.**

Upon a demonstration that supervisory employees of a public utility or government entity have participated in an education program approved by, or provided by, the Implementing Entity, a utility company or government entity may receive an annual license which will allow their employees to perform excavation and grading operations without obtaining individual ICP permits. This license may be granted by the Implementing Entity and will require that the entity comply with performance standards and all other requirements contained herein. All supervisory employees involved in and responsible for excavation and grading operations shall have participated in an Implementing Entity approved education program. The trained supervisor must pass information on to employees as is necessary to protect their health and safety and assure compliance with these Requirements. The Implementing Entity shall provide or arrange for training. Entities licensed under this section shall maintain a log of excavation and grading operations on a form approved by the Implementing Entity. Such logs shall be submitted to the Implementing Entity on a regular basis as determined by the Implementing Entity. All licensees shall telephone the appropriate one-call locating service prior to any excavation or grading

operation. Licenses shall be renewed annually upon a showing that the utility or government entity has operated in compliance with these Requirements. This license may also be revoked as provided in Section 530, subsection 04.

**532. – 539. (RESERVED)**

**540. PERFORMANCE OF WORK.**

**01. Completion of work.** All work done pursuant to an ICP Permit shall be completed in a neat and workmanlike manner and so scheduled as to cause the minimum interference with traffic or public use (if applicable) and a minimum dispersal of Contaminants.

**02. Work Delayed by Applicant.** If the work is unduly delayed by the Applicant, and if the public interest reasonably so demands, the Implementing Entity shall have the authority, upon 24 hours' written notice to the Applicant, to complete the work to the extent that the Barrier is restored and any Contaminants covered or removed. The actual cost of such work by the Implementing Entity (including legal fees), plus an overhead charge, shall be charged to and paid by the Applicant.

**541-598 (Reserved)**

**599. IMPLEMENTATION, ENFORCEMENT AND ADMINISTRATIVE PROCEDURES.**

The Implementing Entity may develop and adopt performance standards and may adopt administrative enforcement and remedy procedures to ensure proper implementation of these Requirements. These standards and procedures shall be consistent with Sections 500.01 and .02 of these Requirements.