

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 WYNKOOP STREET
DENVER, COLORADO 80202-1129

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

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

The Crossfire Aggregate Services

is authorized to discharge from its gravel mining facility located in Section 36 of Township 33 N, Range 10W & Section 1 of Township 32 N Range 10W, latitude 37.0520° N, longitude 107.8862° W,

to Deer Creek, a tributary of the Animas River

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein. Authorization for discharge is limited to those outfalls specifically listed in the Permit.

This Permit shall become effective **April 1, 2022**.

This Permit and the authorization to discharge shall expire at midnight, **March 31, 2027**.

Authorized Permitting Official

Darcy O’Connor, Director
Water Division

Table of Contents

1	Definitions.....	4
2	Description of Discharge Point(s):.....	6
3	Stormwater Effluent limitations Outfall 001 and Outfall 002.....	7
3.1	Stormwater Effluent limitations	7
3.2	Stormwater Benchmark Thresholds For Outfall 001, Outfall 002 and Outfall 003.....	7
4	Effluent Limitations Outfall 003.....	8
5	Self-Monitoring Requirements –.....	9
5.1	Stormwater Self-Monitoring Requirements for Outfall 001 and Outfall 002:.....	9
5.2	Self-Monitoring Requirements – Wastewater Lagoon Dewatering – Outfall 003.....	10
5.3	Reporting of Monitoring Results.....	11
6	Stormwater Pollution Prevention Plan	11
6.1	Stormwater Pollution Prevention Plan Contents:.....	12
6.2	Stormwater Management Controls:.....	12
6.3	Inspection Reports:.....	12
6.4	SWPPP Administrator:.....	13
6.5	SWPPP Review/Change:.....	13
6.6	Monitoring Personnel, Equipment and Supplies:.....	13
6.7	SWPPP Availability:	13
7	Best Management Practices (BMPs).....	13
7.1	Housekeeping:	14
7.2	Identification of Potential Pollutant Sources and corresponding BMPs:	14
7.3	Preventative Maintenance:	14
7.4	Spill Prevention and Response Procedures:	15
7.5	Material Handling/Waste Management:.....	15
7.6	Employee Training:	15
7.7	Record Keeping and Quality Assurance:	16
7.8	Erosion and Sediment Control:	16
7.9	Comprehensive Facility Inspections:	16
7.10	Inspection Prior to Forecasted Storm Events:	17
8	Corrective Action.....	17
8.1	Conditions Requiring SWPPP Review and Revision.....	17
8.2	Conditions Requiring SWPPP Review to Determine if Modifications Are Necessary.	18
8.3	Documentation of Corrective Actions.....	18
9	MONITORING, RECORDING AND REPORTING REQUIREMENTS.....	18
9.1	Representative Sampling:.....	18
9.2	Monitoring Procedures:	18

9.3	Penalties for Tampering:	18
9.4	Reporting of Monitoring Results:.....	19
9.5	Legible copies of all other reports required herein:.....	19
9.6	Additional Monitoring by the Permittee:	20
9.7	Records Contents:.....	20
9.8	Retention of Records:.....	20
9.9	Twenty-four Hour Notice of Noncompliance Reporting:	20
9.10	Other Noncompliance Reporting:.....	21
9.11	Inspection and Entry:.....	21
10	COMPLIANCE RESPONSIBILITIES.....	22
10.1	Duty to Comply:.....	22
10.2	Penalties for Violations of Permit Conditions:.....	22
10.3	Need to Halt or Reduce Activity not a Defense:	23
10.4	Duty to Mitigate:	23
10.5	Bypass of Treatment Facilities:	23
10.6	Upset Conditions:	24
10.7	Toxic Pollutants:.....	25
11	GENERAL REQUIREMENTS	25
11.1	Planned Changes:	25
11.2	Anticipated Noncompliance:	25
11.3	Permit Actions:.....	25
11.4	Duty to Reapply:.....	25
11.5	Duty to Provide Information:	25
11.6	Other Information:.....	26
11.7	Signatory Requirements:	26
11.8	Penalties for Falsification of Reports:	26
11.9	Availability of Reports:	27
11.10	Oil and Hazardous Substance Liability:.....	27
11.11	Property Rights:.....	27
11.12	Severability:.....	27
11.13	Transfers:	27
11.14	Permittees in Indian Country:.....	27
11.15	Reopener Provision:	27
11.16	Toxicity Limitation-Reopener Provision:.....	28

1 Definitions.

The *7-day (and weekly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the Permit. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.

The *30-day (and monthly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the Permit. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.

Benchmark Thresholds- Benchmark monitoring thresholds are used to determine the overall effectiveness of stormwater control measures and trigger when additional action(s) are necessary (see Section 8).

Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

Composite samples shall be flow proportioned. The composite sample shall, at a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours, nor more than twenty-four (24) hours. Acceptable methods for the preparation of composite samples are as follows:

- Constant time interval between samples, sample volume proportional to flow rate at the time of sampling;
- Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time of the first sample was collected may be used;
- Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every “X” gallons of flow); and,
- Continuous collection of sample with sample collection rate proportional to flow rate.

CWA means the Clean Water Act (formerly referred to as either the Federal Water Pollution Act or the Federal Water Pollution Control Act Amendments of 1972), Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4. In this Permit the CWA may be referred to as “the Act”.

Daily Maximum (Daily Max.) is the maximum measured value for a pollutant discharged during a calendar day or any 24-hour period that reasonably represents a calendar day for purposes of sampling. For pollutants with daily maximum limitations expressed in units of mass (e.g., kilograms, pounds), the daily maximum is calculated as the total mass of pollutant discharged over the calendar day or representative 24-hour period. For pollutants with limitations expressed in other units of measurement (e.g., milligrams/liter, parts per billion), the daily maximum is calculated as the average of all measurements of the pollutant over the calendar day or representative 24-hour period. If only one measurement or sample is taken during a calendar day or representative 24-hour period, the single measured value for a pollutant will be considered the daily maximum measurement for that calendar day or representative 24-hour period.

Daily Minimum (Daily Min.) is the minimum value allowable in any single sample or instantaneous measurement collected during the course of a day.

EPA means the United States Environmental Protection Agency, the Regional Administrator of the EPA Region 8 or an authorized representative.

E. coli means *Escherichia coli*.

Grab sample, for monitoring requirements, is defined as a sample collected over a period not exceeding 15 minutes (typically a single "dip and take" sample or an instantaneous measurement) at a location that is representative of conditions at the time the sample is collected.

Instantaneous Maximum Limit means the maximum allowable concentration or other measure of a pollutant determined from the analysis of any sample.

Instantaneous Minimum Limit means the minimum allowable concentration or other measure of a pollutant determined from the analysis of any sample.

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

Sewage Sludge is any solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary or advanced wastewater treatment processes; and a material derived from sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

Stormwater means storm water runoff, snow melt runoff, and surface runoff and drainage.

Sufficiently Sensitive – An analytical chemical-specific test method is sufficiently sensitive when:

- The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or

- The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter.

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

Whole Effluent Toxicity (WET) is the total toxic effect of an effluent measured directly with a toxicity test.

2 Description of Discharge Point(s):

The authorization to discharge provided under this Permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a NPDES Permit is a violation of the Clean Water Act and could subject the person(s) responsible for such discharge to penalties under Section 309 of the Act.

Table 1 – Outfalls Permitted

Outfall Serial Number	Description of Discharge Point
001	Drainage ditch from the facility discharging to Deer Creek at latitude 37.051589° N longitude 107.893444° W
002	Drainage ditch from the facility discharging to Deer Creek at latitude 37.050658° N, longitude 107.889847° W
003	Any location upstream of Outfall 001 and Outfall 002 where wastewater lagoon dewatering is conducted.

3 Stormwater Effluent limitations Outfall 001 and Outfall 002

3.1 Stormwater Effluent limitations

The effluent limitations in Table 2 apply to stormwater discharges that are not contaminated by wastewater or stormwater runoff from areas where mining, concrete batch plant and asphalt emulsion activities are conducted.

Table 2 – Effluent Limitations for Stormwater discharges at Outfall 001 and Outfall 002

Characteristic	30-Day Average a/	7-Day Average a/	Daily Maximum a/
Oil and Grease (O&G), mg/L	10	N/A	10
Dissolved Oxygen (DO), mg/L	N/A	N/A	6.0
Nitrate (N), mg/L	N/A	N/A	100
Nitrite (N), mg/L	N/A	N/A	10
The pH of the discharge shall not be less than 6.5 or greater than 9.0 standard units at any time. b/			
The dissolved oxygen (DO) of the discharge must always be above 6.0 mg/L. c/			

a/ See Definitions, Part 1.1 of Permit, for definition of terms.

b/ 6.5 standard units is the **instantaneous minimum** and 9.0 standard units is the **instantaneous maximum** for pH

c/ 6.0 mg/L dissolved oxygen is the **instantaneous minimum**.

3.2 Stormwater Benchmark Thresholds For Outfall 001, Outfall 002 and Outfall 003

The Permit requires benchmark monitoring of stormwater discharges. Benchmark monitoring data are primarily for the Permittee’s use to determine the overall effectiveness of the Facility’s stormwater Best Management Practices (Section 6 of the Permit) and trigger additional action(s) under Section 8 of the Permit. Table 3 contains the Benchmarks that apply to this Facility.

Table 3 – Benchmark Monitoring Concentrations for Discharges from Outfall 001, Outfall 002, Outfall 003.

Parameter	Benchmark Thresholds
Total Suspended Solids (TSS)	100 mg/L
Nitrate and Nitrite (N)	0.68 mg/L

The benchmark thresholds are not effluent limitations, meaning a benchmark threshold exceedance is not a permit violation. If a benchmark threshold is exceeded, then the permittee must conduct the actions required in Section 8 of the Permit. Failure to conduct any required measures in Section 8 of the Permit is considered a violation.

4 Effluent Limitations Outfall 003

The effluent limitations in Table 4 apply to all dewatering discharges from Lagoons that collect wastewater and runoff from areas where mining, concrete batch plant and asphalt emulsion activities are conducted.

Table 4 - Effluent Limitations - Outfall 003

Characteristic	30-Day Average <u>a/</u>	7-Day Average <u>a/</u>	Daily Maximum <u>a/</u>
Flow, million gallons	Report	N/A	Report
Total Suspended Solids (TSS) Asphalt Emulsion, kg/cu m of runoff <u>c/</u>	0.015	N/A	0.023
Oil and Grease (O&G), mg/L	10	N/A	10
Nitrate (N), mg/L	N/A	N/A	100
Nitrite (N), mg/L	N/A	N/A	10
The pH of the discharge shall not be less than 6.5 or greater than 9.0 at any time. <u>c/</u>			
The dissolved oxygen (DO) of the discharge must always be above 6.0 mg/L. <u>d/</u>			

a/ See Definitions, Part 1.1 of Permit, for definition of terms.

b/ This effluent limitation applies if asphalt emulsion activities are present at the facility. This limit only applies to discharges of process generated wastewater from the areas where asphalt emulsion activities are conducted. The Permittee must measure the volume of wastewater pumped and multiply by the measured TSS values to verify compliance with the effluent limitation.

c/ 6.5 standard units is the **instantaneous minimum** and 9.0 standard units is the **instantaneous maximum** for pH

d/ 6.0 mg/L dissolved oxygen is the **instantaneous minimum**.

5 Self-Monitoring Requirements –

Effective immediately and lasting through the effective term of this Permit. Sampling and test procedures for pollutants listed in this part shall be in accordance with guidelines promulgated by the Administrator in 40 CFR Part 136, as required in 40 CFR § 122.41(j). At a minimum, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report (See Section 9.4) that no discharge or overflow occurred.

5.1 Stormwater Self-Monitoring Requirements for Outfall 001 and Outfall 002:

The Permittee is required to conduct stormwater monitoring once per year of Permit coverage. The monitoring event must be preceded by 7 days without a wastewater discharge or stormwater runoff producing event. The Permittee is required to monitor during runoff producing storm events within the first 30 minutes of runoff occurring during business hours. Monitoring is not required for storm events with the first 30 minutes of run off occurring entirely outside of business hours. If there are no qualifying storm events during the reporting year, the Permittee shall indicate no discharge on the Discharge Monitoring Report. If an effluent limitation or benchmark threshold is exceeded, the Permittee must follow the requirements of Section 8 of the Permit.

Table 5 – Stormwater Monitoring Requirements for Outfalls 001 and 002

Effluent Characteristic	Frequency	Sample Type <u>a</u>/
Total Suspended Solids, mg/L	Once per year	Grab
pH, units	Once per year	Grab
Oil and Grease, mg/L	Once per year	Grab
Nitrate (N), mg/L	Once per year	Grab
Nitrite (N), mg/L	Once per year	Grab
Dissolved Oxygen, mg/L	Once per year	Grab

5.2 Self-Monitoring Requirements – Wastewater Lagoon Dewatering – Outfall 003

Monitoring is required every time that a wastewater dewatering operation occurs at the Facility. The lagoons are expected to be at the bottom of active mine cells and may also contain stormwater that fell directly in the active cell. It is infeasible to separate the wastewater from stormwater that falls directly in the active cells and on the areas that are conducting regulated activities from the wastewater produced by the activities. Wastewater lagoons are expected to be transient and the resulting discharge points will vary. The Permittee is required to monitor for the pollutants in Table 6 at the pump’s discharge point before contacting stormwater. The Permittee may monitor for DO at the point where effluent leaves the Facility boundary if compliance is not achieved at the pump’s discharge point. If a discharge lasts more than 24 hours, the monitoring requirements must be conducted for each 24 hour period of discharge.

Table 6 – Monitoring Requirements for Outfall 003

Effluent Characteristic	Frequency	Sample Type <u>a/</u>
Location of discharge, Latitude, Longitude	Every discharge	GPS Measurement
Flow, million gallons	Each Day of Discharge	Cumulative
Total Suspended Solids, mg/L	Each Discharge	Grab
pH, units	Each Discharge	Grab
Oil and grease, mg/L	Each Discharge	Grab
Nitrate (N), mg/L	Each Discharge	Grab
Nitrite (N), mg/L	Each Discharge	Grab
Dissolved Oxygen, mg/L	Each Discharge	Grab
Polycyclic Aromatic Hydrocarbon (PAH) mg/L <u>b/</u>	Each Discharge	Grab

a/ See Definitions, Permit Part 1.1., for definition of terms.

b/ PAH monitoring is only required if the equipment or materials for asphalt processing are or have been present. Monitoring is required for the 16 individual PAHs identified at 40 CFR Part 423 Appendix A: naphthalene, acenaphthylene, acenaphthene, fluorene, phenanthrene, anthracene, fluoranthene, pyrene, benzo[a]anthracene, chrysene, benzo[b]fluoranthene, benzo[k]fluoranthene, benzo[a]pyrene, benzo[g,h,i]perylene, indeno[1,2,3-c,d]pyrene, and dibenz[a,h]anthracene.

5.3 Reporting of Monitoring Results

The Permittee must report the monitoring results in the data type required in Table XX. For Outfall 001 and Outfall 002 the data may be reported for the period. For outfall 003 each 24 hour period of discharge must have a separate discharge monitoring report.

Effluent Characteristic	Report Data Type
Location of discharge, Latitude, Longitude	GPS coordinates
Flow, million gallons	Cumulative Discharge for reporting period
Total Suspended Solids, mg/L	30 day average, 7 day average, Daily Maximum
Total Suspended Solids (TSS) Asphalt Emulsion, kg/cu m of runoff	Calculated production rate
pH, units	Instantaneous maximum and minimum
Oil and grease, mg/L	30 day average, Daily Maximum
Nitrate (N), mg/L	Daily Maximum
Nitrite (N), mg/L	Daily Maximum
Nitrite + Nitrite	Calculated Daily Maximum
Dissolved Oxygen, mg/L	Instantaneous Minimum
Polycyclic Aromatic Hydrocarbon (PAH) mg/L <u>b/</u>	Daily Maximum

6 Stormwater Pollution Prevention Plan

A stormwater pollution prevention plan (SWPPP) must be developed specifically for the landfill. Any SWPPP that does not meet the requirements listed below must be amended to conform with the SWPPP

requirements in this Permit. Such amendments must be completed within 60 days after the effective date of the Permit.

6.1 Stormwater Pollution Prevention Plan Contents:

The SWPPP must include the following items, at a minimum:

- 6.1.1 Industrial Activity Description. The SWPPP shall provide a narrative description of the industrial activity taking place at the site.
- 6.1.2 Site Map.

The SWPPP shall include a site map indicating the following:

1. The areas where industrial activities occur;
2. The locations of stormwater outfalls and an approximate outline of the areas draining to each outfall;
3. The locations of paved areas and buildings within the drainage area of each stormwater outfall;
4. The locations of each past or present area used for outdoor storage or disposal of significant materials;
5. The locations areas where pesticides, herbicides, soil conditioners, and fertilizers are applied;
6. The locations of existing and new structural control measures designed to reduce pollutants in stormwater runoff and divert run-on from commingling with production wastewater;
7. The locations and sources of run-on to the site;
8. The location and description of non-stormwater discharges;
9. Locations of potential pollutant sources as identified in Parts 6.2 and 6.3;
10. Locations where significant spills or leaks as identified in Part 7.4 occurred;
11. Locations of stormwater inlets and outfalls; and
12. Areas used for the treatment, storage, or disposal of wastes.

6.2 Stormwater Management Controls:

Document in the SWPPP the BMPs installed and any modifications or maintenance performed as required in Section 7.

6.3 Inspection Reports:

Include in the SWPPP observations and resulting actions from the inspections required in this Permit:

- Comprehensive Facility Inspection (Section 7.9)
- Inspection prior to and immediately after Forecasted Storm Events (Section 7.10)
- Weekly preventative maintenance inspections (Section 7.3.2)

6.4 SWPPP Administrator:

The SWPPP must identify a SWPPP administrator within the organization who is responsible for developing the SWPPP and assisting in implementation, maintenance, and revision. The SWPPP must identify the position at the facility responsible for fulfilling these duties (Facility Manager, Safety and Environmental Officer, Operations Supervisor etc.) The activities and responsibilities of the SWPPP administrator shall address all aspects of the facility's SWPPP.

6.5 SWPPP Review/Change:

The Permittee must amend the SWPPP whenever there is a change in design, operation, or maintenance which has an effect on the potential for the discharge of pollutants. The Permittee must amend the SWPPP if the facility specific BMPs are found to be ineffective. If existing BMPs need to be modified or if additional BMPs are necessary, the planned changes and implementation must be completed as soon as practicable, but not more than 30 days after: the change in design, construction, operation, or maintenance, or; the date the SWPPP has been determined to be ineffective, unless this time frame is extended by an EPA authorized representative in writing. Amendments to the SWPPP shall be summarized annually and a running log of the changes must be kept in the SWPPP.

6.6 Monitoring Personnel, Equipment and Supplies:

The SWPPP must contain detailed information on the procedures for monitoring activities, the personnel or consultant responsible for conducting monitoring activities, the location of monitoring supplies and equipment, and identify the laboratory used for each analyte.

6.7 SWPPP Availability:

All documents required under this Permit are considered reports that must be available to the public under Section 308(b) of the Clean Water Act. EPA may make SWPPPs available to members of the public upon request. However, the operator may claim any portion of a SWPPP as confidential in accordance with 40 CFR Part 2.

7 Best Management Practices (BMPs)

The Permittee must identify, describe, and implement BMPs that will remove, reduce or otherwise prevent pollutants in stormwater discharges. The BMPs must include the stormwater management controls identified in Parts 7.1 through 7.9. If any of the requirements are not applicable to the facility, the SWPPP must include a written explanation of inapplicability. If existing controls need to be modified or if additional controls are necessary, new controls must be implemented as soon as reasonable and practicable but not later than 30 days from the date of observation. Failure to take corrective actions within this timeframe is a violation of this permit.

7.1 Housekeeping:

The Permittee must:

- 7.1.1 Implement controls to reduce or prevent material tracking (e.g., sediment, debris, plastic bags) offsite;
- 7.1.2 Cover all stored industrial materials;
- 7.1.3 Contain all stored non-solid industrial materials (such as liquids and powders) that can be transported or dispersed via wind dissipation or contact with stormwater; and
- 7.1.4 Provide and maintain stabilized diversion channels to divert stormwater from the active portion of the Facility.

7.2 Identification of Potential Pollutant Sources and corresponding BMPs:

The Permittee must:

- 7.2.1 Address the following potential sources of pollutants and implement BMPs to reduce the potential of these sources to contribute pollutants to stormwater discharges: fertilizer, herbicide, and pesticide application; earth and soil moving; waste hauling and loading or unloading; outdoor storage of significant materials, including material stockpiles as well as temporary waste storage areas; exposure of active and inactive extraction areas.
- 7.2.2 Maintain a list of spills and leaks that occur and document them in the SWPPP.

7.3 Preventative Maintenance:

Preventative maintenance BMPs generally include the regular inspection and maintenance of facility equipment and systems used outdoors (such as forklifts, process machinery, storage containers, etc) to prevent spills and leaks from occurring due to age, use, malfunction, or damage. The Permittee must:

- 7.3.1 Identify all equipment used outdoors that may spill or leak pollutants;
- 7.3.2 Inspect weekly each of the identified equipment and systems to detect leaks or identify conditions that may result in the development of leaks. These inspections are to be documented in the SWPPP. The documentation must include the name of the person performing the inspection, time and date of the inspection as well as any findings from the inspection and resulting actions. Weekly inspections may be suspended during periods when there is no outdoor exposure of the equipment and systems;
- 7.3.3 Establish a schedule to perform maintenance of identified equipment and systems. The schedule shall either be periodic or based upon more appropriate intervals such as hours of use, mileage, age, etc; and
- 7.3.4 Establish procedures for prompt maintenance and repair of equipment and systems when conditions exist that may result in the development of spills or leaks or failure of collection, recapture, and diversion systems.

7.4 Spill Prevention and Response Procedures:

The Permittee must:

- 7.4.1 Develop and implement spill response procedures. Response procedures must include notification of appropriate facility personnel, emergency agencies, and regulatory agencies, and procedures for stopping, containing, and cleaning up spills. Measures for cleaning up hazardous material spills or leaks must be consistent with applicable Resource Conservation and Recovery Act (RCRA) regulations at 40 CFR Part 264 and 40 CFR Part 265;
- 7.4.2 Provide preventative measures to prevent spills from discharging from the facility via the storm drain. These must include barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;
- 7.4.3 Identify and describe all necessary and appropriate spill response equipment, location of spill response equipment, and spill response equipment maintenance procedures; and
- 7.4.4 Identify and train spill response personnel. Keep documentation of training in the SWPPP. 80% of onsite staff must be trained in compliance with the requirements of this permit once every two years.

7.5 Material Handling/Waste Management:

The Permittee must:

- 7.5.1 Prevent or minimize handling of materials or wastes that can be readily mobilized by contact with stormwater during a storm event;
- 7.5.2 Divert run-on from material handling/waste management/storage areas;
- 7.5.3 Contain non-solid materials or wastes that can be dispersed via wind erosion during handling; and
- 7.5.4 Clean all spills of materials/wastes that occur during handling in accordance with the spill response procedures required in Part 7.4

7.6 Employee Training:

The Permittee must:

- 7.6.1 Establish a facility point of contact responsible for maintaining an employee training program. This person should be familiar with the day-to-day operations at the landfill;
- 7.6.2 Prepare or acquire appropriate training materials which describe the inspection procedures required by this permit, applicable recordkeeping requirements, the structural BMPs on site and how they need to be maintained, and spill response and reporting requirements;
- 7.6.3 Identify which personnel shall be trained, their responsibilities, and the type of training they shall receive;
- 7.6.4 Provide a training schedule; and

7.6.5 Maintain documentation of all completed training classes and the personnel who received training.

7.7 Record Keeping and Quality Assurance:

The Permittee must:

7.7.1 Keep and maintain records of inspections, spills, BMP related maintenance activities, corrective actions, visual observations, etc.; and

7.7.2 Develop and implement management procedures to ensure that the appropriate staff implements requirements of this permit.

7.8 Erosion and Sediment Control:

The Permittee must:

7.8.1 Implement erosion/sediment controls to divert runoff from areas subject to erosion;

7.8.2 Maintain erosion/sediment controls to achieve optimal performance during storm events; and provide temporary stabilization for the following: materials stockpiled for daily, intermediate, and final cover; inactive areas of the landfill or open dump; landfills or open dump areas that have gotten final covers but where vegetation has yet to establish itself; and land application sites where waste application has been completed but final vegetation has not yet been established.

7.9 Comprehensive Facility Inspections:

Qualified personnel identified in the SWPPP shall conduct a comprehensive inspection of the stormwater management system during the months of October and April. Comprehensive inspections must be documented and summarized in the SWPPP at the time of inspection. Qualified personnel are those who:

- Possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and;
- Are able to evaluate the effectiveness of BMPs selected.

7.9.1 The Permittee must inspect material handling areas, disturbed areas, areas used for material storage that are exposed to precipitation, and other potential sources of pollution identified in Parts 7.1-7.9 for evidence of, or the potential for, pollutants entering the stormwater drainage system. Structural stormwater management measures, sediment and control measures, and other structural pollution prevention measures must be observed to ensure that they are operating correctly. A visual inspection of equipment needed to prevent pollutant discharges, such as spill response equipment, shall be made to confirm that it is readily available and in proper working order;

7.9.2 Conduct repairs or maintenance as identified during the inspection, if the repairs are not completed the same day, summarize the steps and estimated time of completion in the SWPPP; and

- 7.9.3 The Permittee must summarize the findings of each comprehensive inspection. The summary must include: the names of personnel making the inspection, the date(s) of the inspection, significant observations, and actions taken in accordance with Part 7.9.2. The summary must be retained for at least three years after the date of the inspection. Significant observations include the location and nature of discharges of pollutants from the site; locations of previously unidentified sources of pollutants; locations of BMPs needing maintenance or repair; locations of spills or direct discharges of process water; locations of failed BMPs that need replacement; and locations where additional BMPs are needed. The report must also document any incidents of noncompliance observed.
- 7.9.4 The Permittee must evaluate the stormwater conveyance system on the site for the presence of discharges other than stormwater. Where dry weather discharges are observed, the Permittee must perform inspections and provide information in the SWPPP on the results of any evaluations, the method(s) used, the date of the evaluation(s), and the on-site drainage points that were directly observed during the evaluation(s). The discharge test and certification must also be conducted for the presence of leachate and landfill wastewater.

7.10 Inspection Prior to Forecasted Storm Events:

An inspection must be performed before every Forecasted Storm Event, unless an inspection was conducted in the 7 days prior to the Forecasted Storm Event. For the purposes of this Permit, a Forecasted Storm is a rainfall event forecasted with greater than 0.25 inch of rainfall and at least 72 hours from the previously measurable—greater than 0.25 inch rainfall—storm event. The Permittee shall inspect housekeeping (see Part 7.1), preventative maintenance BMPs (see Part 7.3), areas of the Facility that have not yet been finally stabilized, areas used for storage of material and wastes that are exposed to precipitation, stabilization and structural control measures including stormwater diversion channels, and locations where equipment and trucks enter and exit the site. Ensure that sediment and erosion control measures are operating properly. The areas inspected, the inspector performing inspections, and the date of inspection must be documented in a paper or electronic log.

8 **Corrective Action**

8.1 Conditions Requiring SWPPP Review and Revision

When any of the following conditions occur or are detected during an inspection, monitoring or other means, or the EPA informs the Permittee that any of the following conditions have occurred, the Permittee must review and revise, as appropriate, the Facility's SWPPP (e.g., sources of pollution; spill and leak procedures; non-stormwater discharges; the selection, design, installation and implementation of your stormwater control measures) so that the Permit's effluent limits are met and pollutant discharges are minimized:

- 8.1.1 An unauthorized release or discharge (e.g., spill, leak, or discharge of non-stormwater not authorized by this or another NPDES permit to a water of the United States) occurs at the Facility.
- 8.1.2 A discharge violates a numeric effluent limit or exceeds a benchmark concentration of the Permit

- 8.1.3 The stormwater control measures are not stringent enough for stormwater discharges to be controlled as necessary such that the receiving water of the United States will meet applicable water quality standards or to meet the requirements in this permit.
- 8.1.4 A required control measure was never installed, was installed incorrectly, or is not being properly operated or maintained.
- 8.1.5 Whenever a visual assessment shows evidence of stormwater pollution (e.g., color, odor, floating solids, settled solids, suspended solids, foam).

8.2 Conditions Requiring SWPPP Review to Determine if Modifications Are Necessary.

If construction or a change in design, operation, or maintenance at the Facility occurs that significantly changes the nature of pollutants discharged via stormwater from the Facility, or significantly increases the quantity of pollutants discharged, the SWPPP must be reviewed (e.g., sources of pollution, spill and leak procedures, non-stormwater discharges, selection, design, installation and implementation of stormwater control measures) to determine if modifications are necessary to meet the effluent limits in this permit.

8.3 Documentation of Corrective Actions

All corrective actions and resulting SWPPP reviews must be documented in the SWPPP inspection log. The cause of the review, the review date, and the resulting corrective action must all be included in the log.

9 **MONITORING, RECORDING AND REPORTING REQUIREMENTS**

9.1 Representative Sampling:

Samples taken in compliance with the monitoring requirements established under section 1 shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use-disposal practice.

9.2 Monitoring Procedures:

Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136, unless other test procedures have been specified in this Permit. Sludge monitoring procedures shall be those specified in 40 C.F.R. 503, or as specified in the Permit. The permittee must select a test procedure that is Sufficiently Sensitive for all monitoring conducted in accordance with this Permit.

9.3 Penalties for Tampering:

The Act provides that any person who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under this Permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or by both. Second conviction is punishable by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

9.4 Reporting of Monitoring Results:

With the effective date of this Permit, the Permittee must electronically report DMRs quarterly, using NetDMR. Electronic submissions by permittees must be submitted quarterly, to the EPA Region 8 no later than the 28th of the month following the completed reporting period. The Permittee must sign and certify all electronic submissions in accordance with the requirements of section 11.7 of this Permit (“Signatory Requirements”). NetDMR is accessed from the internet at <https://netdmr.zendesk.com/home>.

Table 7 – DMR Due Dates

Compliance Monitoring Period	Due Date
January through March	April 28
April through June	July 28
July through September	October 28
October through December	January 28

In addition, the Permittee must submit a copy of the DMR to the Tribe. Currently, the Permittee may submit a copy to the Tribe by one of three ways: 1. a paper copy may be mailed. 2. The email address may be added to the electronic submittal through NetDMR, or, 3. The Permittee may provide viewing rights through NetDMR.

9.5 Legible copies of all other reports required herein:

Shall be signed and certified in accordance with the Signatory Requirements (see section 11.7), and submitted to the EPA Region 8 Policy, Information Management & Environmental Justice Program and the Tribe at the addresses given below:

original to:

U.S. EPA, Region 8
(8ENF-W)
Attention: DMR Coordinator
1595 Wynkoop Street
Denver, Colorado 80202-1129

copy to:

Mark Hutson
Environmental Programs Division Head
Southern Ute Indian Tribe
PO Box 737, Mail Slot 84
Ignacio, CO 81137-0737

Prior to December 21, 2025, all other reports required herein (e.g., Parts 9.9 and 9.10) as well as sewer overflow event reports, shall be signed and certified in accordance with the Signatory Requirements (see Part 11.7), and submitted to the EPA Region 8 Policy,

Information Management and Environmental Justice Program and Tribe at the addresses given above. Effective no later than December 21, 2025, these reports shall be submitted electronically using “NeT”. If the NeT tool is not available on December 21, 2025, the reports can continue to be submitted to the addresses above until the tool is available.

9.6 Additional Monitoring by the Permittee:

If the Permittee monitors any pollutant more frequently than required by this Permit, using test procedures approved under 40 C.F.R. Part 136, 40 C.F.R. Part 503, or as specified in this Permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.

9.7 Records Contents:

Records of monitoring information shall include:

- 9.7.1 The date, exact place, and time of sampling or measurements;
- 9.7.2 The initials or name(s) of the individual(s) who performed the sampling or measurements;
- 9.7.3 The date(s) analyses were performed;
- 9.7.4 The time(s) analyses were initiated;
- 9.7.5 The initials or name(s) of individual(s) who performed the analyses;
- 9.7.6 References and written procedures, when available, for the analytical techniques or methods used; and,
- 9.7.7 The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

9.8 Retention of Records:

The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Permit, and records of all data used to complete the application for this Permit, for a period of at least three years from the date of the sample, measurement, report or application. Records of monitoring required by this Permit related to sludge use and disposal activities must be kept at least five years (or longer as required by 40 C.F.R. Part 503). This period may be extended by request of the Director at any time. Data collected on site, data used to prepare the DMR, copies of DMRs, and a copy of this NPDES Permit must be maintained on site.

9.9 Twenty-four Hour Notice of Noncompliance Reporting:

- 9.9.1 The Permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the Permittee first became aware of the circumstances. The report shall be made to the EPA, Region 8, Site Assessment/Emergency Response Program at (303) 293-1788 and the Tribe at (970) 563-2449.

- 9.9.2 The following occurrences of noncompliance shall be reported by telephone to the EPA, Region 8 NPDES Enforcement Unit at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time), and the Tribe at (970)-563-2269 - (8:00 a.m. - 4:30 p.m. Central Time) by the first workday following the day the Permittee became aware of the circumstances:
- 9.9.2.1 Any unanticipated bypass which exceeds any effluent limitation in the Permit (See section 10.5, Bypass of Treatment Facilities.);
- 9.9.2.2 Any upset which exceeds any effluent limitation in the Permit (See section 10.6, Upset Conditions); or,
- 9.9.2.3 Violation of a maximum daily discharge limitation for any of the pollutants listed in the Permit to be reported within 24 hours.
- 9.9.3 A written submission shall also be provided to the U.S. EPA, Office of Enforcement, Compliance and Environmental Justice, and to the Tribe within five days of the time that the Permittee becomes aware of the circumstances. The written submission shall contain:
- 9.9.3.1 A description of the noncompliance and its cause;
- 9.9.3.2 The period of noncompliance, including exact dates and times;
- 9.9.3.3 The estimated time noncompliance is expected to continue if it has not been corrected; and,
- 9.9.3.4 Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- 9.9.4 The Director may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under section 9.9.2 above, if the incident has been orally reported in accordance with the requirements of section 9.9.2.
- 9.9.5 Reports shall be submitted to the addresses in section 9.5, Reporting of Monitoring Results.

9.10 Other Noncompliance Reporting:

Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for section 9.5 are submitted. The reports shall contain the information listed in section 9.9.3.

9.11 Inspection and Entry:

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

- 9.11.1 Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;
- 9.11.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- 9.11.3 Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and,

9.11.4 Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

10 COMPLIANCE RESPONSIBILITIES

10.1 Duty to Comply:

The Permittee must comply with all conditions of this Permit. Any failure to comply with the Permit may constitute a violation of the Clean Water Act and may be grounds for enforcement action, including, but not limited to termination, revocation and reissuance, modification, or denial of a permit renewal application. The Permittee shall give the EPA advanced notice of any planned changes at the permitted facility that will change any discharge from the facility, or of any activity that may result in failure to comply with permit conditions.

10.2 Penalties for Violations of Permit Conditions:

The Clean Water Act provides for statutory maximum and minimum civil and criminal monetary penalties for violations of its provisions. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires EPA to make adjustments of statutory civil penalties on an annual basis according to a prescribed formula to reflect inflation, beginning in 2016. EPA has adjusted its civil monetary penalties effective December 23, 2020 (85 Fed. Reg. 83818-21. Please note that the civil penalties described below are reflective of the most recent Civil Monetary Penalty Inflation Rule the year this permit was issued and that civil penalties will have been adjusted annually thereafter. Civil penalties that EPA issues will therefore be reflective of the minimum amounts adjusted for inflation at the time of the violation. The civil and criminal penalties for violations of the Act are as follows:

- 10.2.1 Any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$56,460 per day for each violation.
- 10.2.2 Any person who negligently violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment for not more than one year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or both.

- 10.2.3 Any person who knowingly violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than three years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment for not more than six years, or both.
- 10.2.4 Any person who knowingly violates Section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment for not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment for not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
- 10.2.5 Any person may be assessed an administrative penalty by the Administrator for violating Section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of this Act. Where an administrative enforcement action is brought for a Class I civil penalty, the assessed penalty may not exceed \$22,584 per violation, with a maximum amount not to exceed \$56,460. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed \$22,584 per day for each day during which the violation continues, with the maximum amount not to exceed \$282,293.

10.3 Need to Halt or Reduce Activity not a Defense:

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit.

10.4 Duty to Mitigate:

The Permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this Permit which has a reasonable likelihood of adversely affecting human health or the environment.

10.5 Bypass of Treatment Facilities:

10.5.1 Bypass not exceeding limitations: The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of sections 10.5.2 and 10.5.3.

10.5.2 Notice:

10.5.2.1 Anticipated bypass: If the Permittee knows in advance of the need for a bypass, it shall submit

prior notice, if possible at least 10 days before the date of the bypass to the U.S. EPA, Technical Enforcement Program, and the Tribe.

10.5.2.2 Unanticipated bypass: The Permittee shall submit notice of an unanticipated bypass as required under section 9.9, Twenty-four Hour Noncompliance Reporting, to the U.S. EPA, Technical Enforcement Program, and the Tribe.

10.5.3 Prohibition of bypass.

10.5.3.1 Bypass is prohibited and the EPA may take enforcement action against a permittee for a bypass, unless:

10.5.3.1.1 The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

10.5.3.1.2 There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

10.5.3.1.3 The Permittee submitted notices as required under section 10.5.2.

10.5.3.2 The EPA may approve an anticipated bypass, after considering its adverse effects, if the EPA determines that it will meet the three conditions listed above in section 10.5.3.1.

10.6 Upset Conditions:

10.6.1 Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of section 3.8.2 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).

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

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

10.6.2.2 The permitted facility was at the time being properly operated;

10.6.2.3 The Permittee submitted notice of the upset as required under section 9.9, Twenty-four Hour Notice of Noncompliance Reporting; and,

10.6.2.4 The Permittee complied with any remedial measures required under section 10.4, Duty to Mitigate.

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

10.7 Toxic Pollutants:

The Permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the Permit has not yet been modified to incorporate the requirement.

11 GENERAL REQUIREMENTS

11.1 Planned Changes:

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

- 11.1.1 The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the Permit; or,
- 11.1.2 There are any planned substantial changes to the existing sewage sludge facilities, the manner of its operation, or to current sewage sludge management practices of storage and disposal. The Permittee shall give the EPA notice of any planned changes at least 30 days prior to their implementation.
- 11.1.3 The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.

11.2 Anticipated Noncompliance:

The Permittee shall give advance notice to the EPA of any planned changes in the permitted facility or activity which may result in noncompliance with Permit requirements.

11.3 Permit Actions:

This Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

11.4 Duty to Reapply:

If the Permittee wishes to continue an activity regulated by this Permit after the expiration date of this Permit, the Permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this Permit.

11.5 Duty to Provide Information:

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

11.6 Other Information:

When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the EPA, it shall promptly submit such facts or information.

11.7 Signatory Requirements:

All applications, reports or information submitted to the EPA shall be signed and certified.

11.7.1 All permit applications shall be signed by either a principal executive officer or ranking elected official.

11.7.2 All reports required by the Permit and other information requested by the EPA shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

11.7.2.1 The authorization is made in writing by a person described above and submitted to the EPA; and,

11.7.2.2 The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

11.7.3 Changes to authorization: If an authorization under section 11.7.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of section 11.7.2 must be submitted to the EPA prior to or together with any reports, information, or applications to be signed by an authorized representative.

11.7.4 Certification: Any person signing a document under this section shall make the following certification:

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

11.8 Penalties for Falsification of Reports:

The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.

11.9 Availability of Reports:

Except for data determined to be confidential under 40 C.F.R. Part 2, Subpart B, all reports prepared in accordance with the terms of this Permit shall be available for public inspection at the offices of the EPA. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

11.10 Oil and Hazardous Substance Liability:

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of the Act.

11.11 Property Rights:

The issuance of this Permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, Tribal or local laws or regulations.

11.12 Severability:

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Permit, shall not be affected thereby.

11.13 Transfers:

This Permit may be automatically transferred to a new permittee if:

- 11.13.1 The current Permittee notifies the EPA at least 30 days in advance of the proposed transfer date;
- 11.13.2 The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
- 11.13.3 The EPA does not notify the existing Permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the Permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in section 11.13.2.

11.14 Permittees in Indian Country:

The EPA is issuing this Permit pursuant to the Agency's authority to implement the Clean Water Act NPDES program in Indian country, as defined at 18 U.S.C. § 1151.

11.15 Reopener Provision:

This Permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:

- 11.15.1 Water Quality Standards: The water quality standards of the receiving water(s) to which the Permittee discharges are modified in such a manner as to require different effluent limits than contained in this Permit.

11.15.2Wasteload Allocation: A wasteload allocation is developed and approved by the Tribe and/or the EPA for incorporation in this Permit.

11.15.3Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this Permit.

11.16Toxicity Limitation-Reopener Provision:

This Permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity limitations if whole effluent toxicity is detected in the discharge.