

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 American Gilsonite Company – Cottonwood Mine**

is authorized to discharge from its facility located in Township 10 South, Range 21 East, at latitude 39.89780° N, and longitude 109.51373° W, Uintah County, Utah,

**to an unnamed tributary of Sand Wash, and an unnamed tributary of Cottonwood Wash, which are both tributaries to the White 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**.

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Authorized Permitting Official

Darcy O’Connor, Director  
Water Division

NPDES BP (Rev.10/2017)

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## 1 Definitions

The *7-day (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. (40 CFR Part 122.2)

The *30-day (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. (40 CFR Part 122.2)

*Act ("the Act")* 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 Act may be referred to as the CWA. (40 CFR Part 122.2)

*Bypass* means the intentional diversion of waste streams from any portion of a treatment facility. (40 CFR Part 122.41(m)(1)(i))

*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 specified otherwise at 40 CFR Part 136. (40 CFR Part 122.21(g)(7)). 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:

- (a) Constant time interval between samples, sample volume proportional to flow rate at the time of sampling;
- (b) 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;
- (c) Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
- (d) Continuous collection of sample with sample collection rate proportional to flow rate.

*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. The Daily Maximum limitation is the highest allowable discharge limit over the calendar day or representative 24-hour period. (40 CFR Part 122.2, see “daily discharge” and “maximum daily discharge limitation”)

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

*Geometric mean* is an average or mean based on multiplication instead of addition. To calculate a geometric mean, multiply all the measured values together and then take the nth root, where n is the number of measured values.

$$\sqrt[n]{(X_1 X_2 X_3 \dots X_n)} \quad \text{or} \quad (X_1 X_2 X_3 \dots X_n)^{1/n}$$

*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. 40 CFR Part 403.

*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.

*New Source* means any building, structure, facility, or installation from which there is or may be a “discharge of pollutants,” the construction of which commenced:

- (a) After promulgation of standards of performance under Section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with Section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal. (40 CFR Part 122.2)

*Permit* means this NPDES permit upon finalization. (40 CFR Part 122.2)

*Permittee* means the “person” as defined by Section 502(5) of the Act authorized to discharge under the Permit.

*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. (40 CFR Part 122.41(m)(1)(i))

*Sewage Sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced waste water treatment, scum, septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during the incineration of sewage sludge. (40 CFR Part 122.2)

*Storm water* means storm water runoff, snow melt runoff, and surface runoff and drainage. (40 CFR Part 122.26(b)(13))

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

- (a) 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
- (b) 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. (40 CFR Part 122.44(i)(1)(iv)(A))

*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. (40 CFR Part 122.41(n))

*Whole Effluent Toxicity (WET)* is the total toxic effect of an effluent measured directly with a toxicity test using methods approved under 40 CFR Part 136.

## **2 Description of Discharge and Monitoring 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.

The Permittee may request, in writing, a change to a dewatering outfall location provided all of the following conditions are met. EPA may approve or deny the request based on monitoring results and other information available without further public notice or major modification of the Permit.

- (a) The modified outfall location is within 0.25 miles (1,320 feet) of the existing outfall location;
- (b) The modified outfall location discharges to the same immediate receiving water;
- (c) The modified outfall location remains on the same vein and incorporates the same treatment processes;
- (d) There is no change to nearby affected landowners; and
- (e) Notification of the change in outfall location is provided to EPA at the address below prior to any discharges to the modified outfall location:

U.S. EPA, Region 8  
(8WD-CWW)  
Attention: Wastewater Section  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

Table 1 – Description of Discharge and Monitoring Points

<b>Outfall / Discharge Location Number</b>	<b>Latitude/Longitude</b>	<b>Receiving Water</b>	<b>Location Description</b>
002	39.89780° N/ 109.51373° W	Unnamed tributary of Sand Wash	Mine dewatering effluent discharged to an unnamed dry wash
003	39.90417° N/ 109.53750° W	Unnamed tributary of Cottonwood Wash	Mine dewatering effluent discharged to an unnamed dry wash

### 3 Effluent Limitations

All Outfalls: Effective immediately and lasting through the life of this Permit, the quality of effluent discharged by the facility shall, at a minimum, meet the limitations as set forth below:

Table 2 – Effluent Limitations for Outfalls 002 and 003

<b>Effluent Characteristic</b>	<b>30-Day Average Effluent Limitations <u>a/</u></b>	<b>7-Day Average Effluent Limitations <u>a/</u></b>	<b>Daily Maximum Effluent Limitations <u>a/</u></b>
Flow, million gallons per day (mgd)	report only	N/A	report only
Total Suspended Solids (TSS), mg/L	25	35	N/A
Oil and Grease (O&G), mg/L	N/A	N/A	10
Total Dissolved Solids (TDS), mg/L	N/A	N/A	3,500
Calcium, mg/L	N/A	N/A	report only
Iron, mg/L	N/A	N/A	report only
Magnesium, mg/L	N/A	N/A	report only
Potassium, mg/L	N/A	N/A	report only
Sodium, mg/L	N/A	N/A	report only
Bicarbonate, mg/L	N/A	N/A	report only
Carbonate, mg/L	N/A	N/A	report only
Chloride, mg/L	N/A	N/A	report only
Fluoride, mg/L	N/A	N/A	report only
Sulfate, mg/L	N/A	N/A	report only
Sodium Adsorption Ratio (SAR)	N/A	N/A	report only
Hardness, mg/L	N/A	N/A	report only
Temperature, °C	N/A	N/A	report only
pH, standard units	Shall not be less than 6.5 nor greater than 9.0 at any time.		
TDS Load, tons/year	The TDS load from the sum of all outfalls shall not be greater than 366 tons/year		
Sanitary wastewater, process wastewater, and contact cooling water	There shall be <b>no</b> discharge of sanitary wastewater, process wastewater, or contact cooling water.		
Visible sheen	There shall not be any visible sheen in the receiving water or adjoining shoreline.		

a/ See section 1 for definition of terms.

#### 4 Self-Monitoring and Data Requirements

Self-monitoring shall be conducted effective immediately and lasting through the effective term of this Permit. Sampling and test procedures for pollutants listed in this section shall be in accordance with guidelines promulgated by the Administrator in 40 CFR Part 136, as required in 40 CFR Part 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 (DMR) that no discharge occurred. See Reporting of Monitoring Results, section 6.4, for more details.

Table 3 – Monitoring and Reporting Requirements for Outfalls 002 and 003

<b>Effluent Characteristic</b>	<b>Monitoring Frequency</b>	<b>Sample Type <u>a/</u></b>	<b>Data Type <u>a/</u></b>
Flow, million gallons per day (mgd)	Weekly <u>b/</u>	Grab/Continuous	Daily Maximum 30-Day Average
TSS, mg/L	Monthly <u>c/</u>	Grab	30-Day Average 7-Day Average
Oil and Grease, visual	Weekly	Visual <u>d/</u>	Present/Not Present
pH, standard units	Monthly <u>e/</u>	Grab	Instantaneous Minimum Instantaneous Maximum
Calcium, mg/L	Quarterly <u>f/</u>	Grab	Daily Maximum
Iron, mg/L	Quarterly <u>f/</u>	Grab	Daily Maximum
Magnesium, mg/L	Quarterly <u>f/</u>	Grab	Daily Maximum
Potassium, mg/L	Quarterly <u>f/</u>	Grab	Daily Maximum
Sodium, mg/L	Quarterly <u>f/</u>	Grab	Daily Maximum
Bicarbonate, mg/L	Quarterly <u>f/</u>	Grab	Daily Maximum
Carbonate, mg/L	Quarterly <u>f/</u>	Grab	Daily Maximum
Chloride, mg/L	Quarterly <u>f/</u>	Grab	Daily Maximum
Fluoride, mg/L	Quarterly <u>f/</u>	Grab	Daily Maximum
Sulfate, mg/L	Quarterly <u>f/</u>	Grab	Daily Maximum
Sodium Adsorption Ratio (SAR), <u>g/</u>	Quarterly <u>f/</u>	Calculation	Daily Maximum
Hardness, mg/L <u>h/</u>	Quarterly <u>f/</u>	Calculation	Daily Maximum
Temperature, °C	Monthly	Instantaneous	Instantaneous Maximum Instantaneous Minimum
TDS, mg/L	Monthly <u>i/</u>	Grab	Daily Maximum 30-Day Average
TDS Load, tons/year	Quarterly <u>j/</u>	Calculation	Rolling Annual Average

a/ See section 1 for definitions of terms.

- b/ Flow measurements of effluent volume shall be made in such a manner that the Permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate and the daily maximum flow (maximum volume discharged during a 24-hour period) observed for each month in the quarterly reporting period shall be reported in million gallons per day. The sampling type “grab/continuous” refers to taking weekly “grab sample” readings of the flow meter, coupled with continuous records of pump/generator log hours.
- c/ The average monthly value and highest average weekly value shall be reported for each month in the quarterly reporting period.
- d/ For visual observations, report “Yes” or “1” if the parameter was detected during the reporting period; report “No” or “0” if the parameter was not detected during the reporting period. If a visible sheen or floating oil is detected or observed in the discharge, a grab sample shall be taken immediately, analyzed and recorded in accordance with the requirements of 40 CFR Part 136.
- e/ The maximum and minimum pH shall be reported for each month in the quarterly reporting period.
- f/ After two years (eight quarters) of monitoring, the Permittee may request, in writing, a reduction in monitoring frequency for this parameter. Any such request must be sent to EPA at the address in this footnote. EPA may approve or deny the request based on the monitoring results and other information available without further public notice or major modification of the Permit. If approved, EPA may reduce the monitoring frequency to either semi-annually or annually.

U.S. EPA, Region 8  
 (8WD-CWW)  
 Attention: Wastewater Section  
 1595 Wynkoop Street  
 Denver, Colorado 80202-1129

- g/ SAR can be calculated from the calcium, magnesium, and sodium measurements.
- h/ Hardness can be calculated from the calcium and magnesium measurements.
- i/ The average monthly value and the daily maximum shall be reported for each month in the quarterly reporting period.
- j/ The reported value for this parameter is the total mass of dissolved solids discharged by this facility per year. This value is reported once per quarter and is based on a rolling annual average (i.e., the last 12 months of data). The calculation for this parameter is the sum of the products of the TDS (mg/L) and average monthly discharge rate (ADR) in mgd *for each outfall and each month* converted to tons/year using the equations below. If more than one TDS sample is collected from an outfall during a month, the TDS results shall be averaged for that month. See section 7.1 of the statement of basis for an example calculation using these equations.

- (1) Rolling Annual TDS Load (tons/year) = sum of the past 12 months of Monthly TDS Load
- (2) Monthly TDS Load (tons/month) =  $0.125 \times [\text{TDS}_{\text{outfall002}} \times \text{ADR}_{\text{outfall002}} + \text{TDS}_{\text{outfall003}} \times \text{ADR}_{\text{outfall003}}]$

## 5 Special Conditions

### 5.1 Operational Best Management Practices (BMPs):

This facility may use chemical and other engineering controls to manage TSS and pH in their discharge. BMPs have been added to the Permit to help achieve permit limits and have been incorporated into section 7.6 (Proper Operation & Maintenance). Operational BMP inspections in this section shall be recorded (see section 7.6 – Inspection Requirements) and retained (see section 6.8 – Retention of Records).

5.1.1 TSS: If necessary, BMPs for the use of bag filters shall include, but are not limited to, the following:

- Ensure that the maximum flow rate of the bag filters are not exceeded. If the discharge flow rate is approaching or exceeding the maximum flow rate of the bag filters, re-structure the outfall as needed;
- Check bag filters weekly while discharging to ensure that they are not fouled and replace as needed. If the bag filter is at a stage where it may be overdue for replacement at the next weekly check, replace bag at that inspection (i.e., before it is overdue for replacement);
- When removing bag filters from piping, use caution to avoid dumping/discharge of collected sediment/slurry back into the receiving water;
- Dispose of used/fouled bag filters appropriately (see section 7.7); and
- Install bag filters at additional outfalls if discharge water quality is approaching TSS limits.

5.1.2 pH: If necessary, BMPs for the pH adjustment process shall include, but are not limited to, the following:

- Calibrate handheld pH meters regularly, per the manufacturer's instructions;
- Check calibration of pH sensors in automatic injection control against handheld pH meters at least monthly while discharging;
- Clean pH sensors in automatic injection controls regularly. At a minimum, these pH sensors shall be cleaned on a monthly basis while discharging. Always check pH calibration of sensors after cleaning;
- If pH violations continue to occur at a particular outfall, consider adjusting the pH setpoint at that outfall to ensure compliance with Permit limitations; and
- Install pH injection controls at additional outfalls if discharge water quality is approaching pH limits.

### 5.2 Stormwater Pollution Prevention Plan (SWPPP):

A Stormwater Pollution Prevention Plan (SWPPP) shall be developed and implemented for the facility. Any SWPPP prepared before the effective date of this Permit that does not meet all of the requirements listed herein, shall be amended to conform to the SWPPP requirements in this Permit. Such amendments shall be completed within 60 days of the effective date of this Permit. The SWPPP must be kept up-to-date throughout the Permit coverage, such as making revisions and improvements to the stormwater management program based on new information and experiences with wet weather events, including major storm events and extreme flooding conditions. The additional documentation requirements (see section 5.2.8) document the facility's

implementation (including inspection, maintenance, monitoring, and corrective action) of the SWPPP.

#### 5.2.1 Person(s) Responsible for Preparing the SWPPP:

The SWPPP shall be prepared in accordance with good engineering practices and to industry standards. Any SWPPP must be developed by a “qualified person”. A “qualified person” is a person knowledgeable in the principles and practices of industrial stormwater controls and pollution prevention, and possesses the education and ability to assess conditions at the industrial facility that could impact stormwater quality, and the education and ability to assess the effectiveness of stormwater controls selected and installed to meet the requirements of the permit. If EPA concludes that the SWPPP is not in compliance with this section, EPA may require the SWPPP to be reviewed, amended as necessary, and certified by a Professional Engineer or a Professional Geologist with the education and experience necessary to prepare an adequate SWPPP.

#### 5.2.2 Required Contents of the SWPPP:

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

5.2.2.1 SWPPP Team: The SWPPP must identify the staff members (by name or title) that comprise the facility’s stormwater pollution prevention team as well as their individual responsibilities. The stormwater pollution prevention team is responsible for overseeing development of the SWPPP, any modifications to it, and for implementing and maintaining control measures and taking corrective actions when required. Each member of the stormwater pollution prevention team must have ready access to either an electronic or paper copy of this permit, the most updated copy of the SWPPP, and other relevant documents or information that must be kept with the SWPPP.

5.2.2.2 Site Description: The SWPPP must include the following:

5.2.2.2.1 Activities at the facility – Provide a description of the nature of the industrial activities at the facility.

5.2.2.2.2 General location map – Provide a general location map (e.g., U.S. Geological Survey (USGS) quadrangle map) with enough detail to identify the location of the facility and all receiving waters for stormwater discharges.

5.2.2.2.3 Site map – Provide a map showing:

- 1) Boundaries of the property and the size of the property in acres;
- 2) Location and extent of significant structures and impervious surfaces;
- 3) Directions of stormwater flow (use arrows);
- 4) Location of all stormwater control measures;
- 5) Locations of all receiving waters, including wetlands, in the immediate vicinity of the facility (i.e., within one [1] mile of the facility or an outfall). Indicate which waterbodies are listed as impaired and which are identified by the Ute Indian Tribe or EPA as Tier 2, Tier 2.5, or Tier 3 waters;
- 6) Locations of all stormwater conveyances including ditches, pipes, and swales;

- 7) Locations of potential pollutant sources identified under section 5.2.3;
- 8) Locations where significant spills or leaks identified under section 5.2.3.3 have occurred;
- 9) Locations of all stormwater monitoring points;
- 10) Locations of stormwater inlets and discharge points, with a unique identification code for each discharge point (e.g., SW001, SW002) and an approximate outline of the areas draining to each discharge point;
- 11) Areas of designated critical habitat for endangered or threatened species, if applicable;
- 12) Locations of the following activities where such activities are exposed to precipitation:
  - a. fueling stations;
  - b. vehicle and equipment maintenance and/or cleaning areas;
  - c. loading/unloading areas;
  - d. locations used for the treatment, storage, or disposal of wastes;
  - e. liquid storage tanks;
  - f. processing and storage areas;
  - g. immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility;
  - h. transfer areas for substances in bulk;
  - i. machinery; and
  - j. locations and sources of run-on to the facility from adjacent property that contains significant quantities of pollutants;

and

- 13) The locations of wells where fluids from the facility are injected underground;

### 5.2.3 Summary of Potential Pollutant Sources:

The SWPPP must describe areas at the facility where industrial materials or activities are exposed to stormwater or from which authorized non-stormwater discharges originate. Industrial materials or activities include but are not limited to: material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, and intermediate products, by-products, final products, and waste products. Material handling activities include, but are not limited to: the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product or waste product. For structures located in areas of industrial activity, the structures themselves are potential sources of pollutants. For each area identified, the SWPPP must describe:

5.2.3.1 Activities in the Area: A list of the industrial activities exposed to stormwater (e.g., material storage; equipment fueling, maintenance, cleaning; packaging Gilsonite).

5.2.3.2 Pollutants: A list of the pollutant(s) or pollutant constituents (e.g., crankcase oil,

sulfuric acid, cleaning solvents) associated with each identified activity, which could be exposed to rainfall or snowmelt and could be discharged from the facility. The pollutant list must include all significant materials that are or have been handled, treated, stored or disposed, and that are or have been exposed to stormwater in the past three years.

- 5.2.3.3 Spills and Leaks: The SWPPP must document where potential spills and leaks could occur that could contribute pollutants to stormwater discharges, and the corresponding discharge point(s) that would be affected by such spills and leaks. It must document all significant spills and leaks of oil or toxic or hazardous substances that actually occurred at exposed areas, or that drained to a stormwater conveyance, in the past three years.
- 5.2.3.4 Unauthorized Non-Stormwater Discharges Evaluation: The Permittee shall evaluate the stormwater conveyance system on the site for the presence of discharges other than stormwater. Where dry weather discharges are observed, the Permittee shall immediately perform illicit discharge detection and elimination procedures and provide information in the annual report 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), and the actions taken to immediately eliminate the discharge.
- 5.2.3.5 Salt Storage: The SWPPP must document the location of any storage piles containing salt used for deicing or other commercial or industrial purposes.
- 5.2.3.6 Sampling Data: Existing permitted facilities must summarize all stormwater discharge sampling data collected at the facility during the previous permit term, if applicable. The summary shall include a narrative description (and may include data tables/figures) that adequately summarizes the collected sampling data to support identification of potential pollution sources at the facility.
- 5.2.4 Stormwater Management Controls: The Permittee shall identify, describe and implement appropriate facility specific controls that will reduce or prevent pollutants in stormwater and include all of the stormwater management controls identified in this section, unless clearly inapplicable to the facility. If any of the requirements are not applicable to the facility, the Permittee shall include a written explanation of inapplicability in the facility's SWPPP.
  - 5.2.4.1 Good Housekeeping: Perform good housekeeping measures in order to minimize pollutant discharges, including but not limited to, the following:
    - 5.2.4.1.1 Provide a schedule or the convention used for determining when pickup and disposal of waste materials occurs. Also provide a schedule for routine inspections for leaks and conditions of drums, tanks and containers (see section 5.2.9).
    - 5.2.4.1.2 Keep clean all exposed areas that are potential sources of pollutants. Sweep or vacuum at regular intervals or, alternatively, wash down the area and collect and/or treat, and properly dispose of the washdown water.
    - 5.2.4.1.3 Store materials in appropriate containers and covered if possible.

- 5.2.4.1.4 Keep all dumpster lids closed when not in use. For dumpsters and roll off boxes that do not have lids and could leak, ensure that discharges have a control (e.g., secondary containment).
- 5.2.4.1.5 Minimize the potential for waste, garbage and floatable debris to be discharged by keeping exposed areas free of such materials, or by intercepting them before they are discharged.
- 5.2.4.1.6 Minimize the use of chemicals for dust suppression and eliminate the use of chemical dust suppressants near water crossings.
- 5.2.4.1.7 Divert stormwater (or authorized non-stormwater flows from non-industrial areas such as employee parking) from contact with industrial areas of the facility.
- 5.2.4.2 Preventative Maintenance/Material Handling: Preventative maintenance procedures include regular inspections, testing, maintenance and repair of all control measures to avoid situations that may result in leaks, spills, and other releases (including transportation via wind erosion), materials handling procedures, and any back-up practices in place should a runoff event occur while a control measure is off-line. 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 shall:
  - 5.2.4.2.1 Provide a schedule or frequency for inspection and maintenance of all control measures (see section 5.2.9).
  - 5.2.4.2.2 Identify, inspect, and maintain all equipment and systems used outdoors that may spill or leak pollutants.
  - 5.2.4.2.3 Inspect and clean any outdoor material/waste handling equipment or containers that may be contaminated by contact with industrial materials or wastes.
  - 5.2.4.2.4 Perform inspections and preventive maintenance of stormwater drainage, source controls, treatment systems, and plant equipment and systems that could fail and result in contamination of stormwater.
  - 5.2.4.2.5 Inspect and maintain stormwater management devices (oil/water separators, catch basins, etc.).
  - 5.2.4.2.6 Maintain non-structural control measures (e.g., keep spill response supplies available, personnel appropriately trained).
  - 5.2.4.2.7 Inspect and maintain baghouses at least quarterly to prevent the escape of dust from the system, and immediately remove any accumulated dust at the base of the exterior baghouse.
  - 5.2.4.2.8 Clean catch basins when the depth of debris reaches two-thirds (2/3) of the sump depth and keep the debris surface at least six inches below the lowest outlet pipe, if applicable.

- 5.2.4.2.9 Prevent or minimize handling of materials or wastes that can be readily mobilized by contact with stormwater during a storm event.
- 5.2.4.2.10 Divert run-on from material handling/waste management/storage areas.
- 5.2.4.2.11 Contain non-solid materials or wastes that can be dispersed via wind erosion during handling.
- 5.2.4.2.12 Cover waste disposal containers when not in use.
- 5.2.4.3 Spill Prevention and Response: To prevent spills, include in the SWPPP the control measures for material handling and storage, and the procedures for preventing leaks and spills that can contaminate stormwater. These procedures shall also specify cleanup equipment, procedures and spill logs, as appropriate, in the event of spills. The SWPPP may reference the existence of other plans for Spill Prevention Control and Countermeasure (SPCC) developed for the facility or BMP programs otherwise required by an NPDES permit for the facility, provided that a copy of that other plan is kept onsite and made available for review along with the SWPPP. Specific spill prevention and response BMPs include:
  - 5.2.4.3.1 Develop and implement spill response procedures. Response procedures shall include procedures for stopping, containing and cleaning up spills.
  - 5.2.4.3.2 Plainly label containers (e.g., “Used Oil,” “Spent Solvents,” “Fertilizers and Pesticides”) that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur.
  - 5.2.4.3.3 Implement procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas.
  - 5.2.4.3.4 Develop training on the procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. As appropriate, execute such procedures as soon as possible.
  - 5.2.4.3.5 Keep spill kits onsite, located near areas where spills may occur or where a rapid response can be made.
  - 5.2.4.3.6 Notify appropriate facility personnel when a leak, spill, or other release occurs. State or local requirements may necessitate reporting spills or discharges to local emergency response, public health, or drinking water supply agencies. Contact information must be in locations that are readily accessible and available.
- 5.2.4.4 Erosion and Sediment Controls: To minimize pollutant discharges in stormwater, minimize erosion by stabilizing exposed soils at the facility and placing flow velocity dissipation devices at discharge locations to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points. Both structural and non-structural control measures must be used as needed to minimize the discharge of sediment. There are many resources available to help in the selection of appropriate stormwater control measures for erosion and sediment control, including EPA’s

Stormwater Discharges from Construction Activities website at:  
<https://www.epa.gov/npdes/stormwater-discharges-construction-activities>.

#### 5.2.5 Employee Training:

- 5.2.5.1 Training must be provided for all employees who work in areas where industrial materials or activities are exposed to stormwater, or who are responsible for implementing activities necessary to comply with the SWPPP, including all members of the stormwater pollution prevention team. Specifically, personnel who are responsible for:
  - 5.2.5.1.1 The design, installation, maintenance, and/or repair of controls (including pollution prevention measures);
  - 5.2.5.1.2 The storage and handling of chemicals and materials that could become contaminants in stormwater discharges;
  - 5.2.5.1.3 Conducting and documenting monitoring and inspections; and
  - 5.2.5.1.4 Taking and documenting corrective actions.
- 5.2.5.2 Personnel must be trained in at least the following if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections):
  - 5.2.5.2.1 An overview of the contents of the SWPPP;
  - 5.2.5.2.2 Spill response procedures, good housekeeping, maintenance requirements, and material management practices;
  - 5.2.5.2.3 The location of all the controls required by this permit, and how they are to be maintained;
  - 5.2.5.2.4 The proper procedures to follow with respect to this permit's pollution prevention requirements;
  - 5.2.5.2.5 When and how to conduct inspections, record applicable findings, and take corrective actions; and
  - 5.2.5.2.6 The facility's emergency procedures, if applicable.
- 5.2.5.3 The employee training plan documentation shall be kept with the SWPPP and include:
  - 5.2.5.3.1 The content of the training;
  - 5.2.5.3.2 The frequency/schedule of training for employees who work in areas where industrial materials or activities are exposed to stormwater, or who are responsible for implementing activities necessary to meet the conditions of this Permit; and
  - 5.2.5.3.3 A log of the dates and names of the employees that received the training.

### 5.2.6 Signature Requirements:

The SWPPP, including changes to the SWPPP to document any corrective actions or advanced implementation measures taken, and any other compliance documentation required under the SWPPP such as the Annual Report, must be signed in accordance with section 8.7.2. All other changes to the SWPPP must be signed and dated by the person preparing the change or documentation.

### 5.2.7 SWPPP Availability:

A complete copy of the current SWPPP must be kept at the facility in any accessible format. A complete SWPPP includes any documents incorporated by reference and all supporting documentation, as well as the signed and dated certification page. Regardless of the format, the SWPPP must be immediately available to facility employees, EPA, the Ute Indian Tribe, and representatives of the U.S. Fish and Wildlife Service (USFWS) upon request, including at the time of an onsite inspection. Any SWPPP required under this permit is considered a public document. However, the Permittee may claim any portion of the SWPPP as confidential in accordance with 40 CFR Part 2. Any portions of the SWPPP that are being withheld from public access must be clearly identified.

### 5.2.8 Additional Documentation Requirements:

The following inspection, monitoring, and certification records are required to be kept with the SWPPP:

- 5.2.8.1 A copy of this permit (an electronic copy easily available to SWPPP personnel is also acceptable);
- 5.2.8.2 Documentation of maintenance and repairs of control measures, including the date(s) of regular maintenance, date(s) of discovery of areas in need of repair/replacement, and for repairs, date(s) that the control measure(s) returned to full function, and the justification for any extended maintenance/repair schedules;
- 5.2.8.3 Employee training plan and schedule records;
- 5.2.8.4 All inspection reports;
- 5.2.8.5 Description of any deviations from the schedule for visual assessments and/or monitoring, and the reason for the deviations;
- 5.2.8.6 Corrective action documentation required; and
- 5.2.8.7 Any document incorporated by reference into the SWPPP (e.g., a separate spill prevention plan).

### 5.2.9 Inspection Requirements

The SWPPP must document procedures for performing, as appropriate, the types of inspections specified by this Permit. All inspections must be performed by qualified personnel, including *at least* one member of the stormwater pollution prevention team (see section 5.2.2.1). For each type of inspection performed, the SWPPP must identify:

- Person(s) or positions of person(s) responsible for the inspection
- Schedules for conducting inspections
- Specific items to be covered by the inspection, including schedules for specific discharge points

5.2.9.1 Routine facility inspections must be conducted at a reasonable frequency but no less than **quarterly** (i.e., once each calendar quarter); however this frequency can and should be increased to monthly or even weekly, if circumstances warrant. Increased frequency may be appropriate for some types of equipment, processes and stormwater control measures, or areas of the facility with significant activities and materials exposed to stormwater. At least once each calendar year, the routine inspection must be conducted during a period of stormwater runoff (e.g., during or just after a storm or snowmelt event).

5.2.9.1.1 Areas that Must Be Inspected: During normal facility operating hours, qualified personnel must conduct inspections of areas of the facility covered by the requirements in this permit, including, but not limited to, the following:

- Areas where industrial materials or activities are exposed to stormwater;
- Areas identified in the SWPPP and those that are potential pollutant sources (see section 5.2.3);
- Areas where spills and leaks have occurred in the past three years;
- Discharge points; and
- Control measures used to comply with the effluent limits contained in this permit.

5.2.9.1.2 What Must Be Looked for During an Inspection: During the inspection, the qualified personnel must examine or look out for the following:

- Good Housekeeping inspections: All inspection requirements listed in section 5.2.4.1 must be performed. Additionally, inspect all outdoor areas associated with industrial activity, stormwater discharges, etc. Clean and dispose of any identified debris, wastes, and spilled/leaked materials.
- Preventative Maintenance/Material Handling inspections: All inspection requirements listed in section 5.2.4.2 must be performed.
- Industrial materials, residue or trash that may have or could come into contact with stormwater.
- Leaks or spills from industrial equipment, drums, tanks and other containers.
- Offsite tracking of industrial or waste materials, or sediment where vehicles enter or exit the site.
- Tracking or blowing of raw, final or waste materials from areas of no exposure to exposed areas.
- Structural and non-structural control measures needing replacement, maintenance or repair.
- During an inspection occurring during a stormwater event or discharge, control measures must be observed to ensure they are functioning correctly. Discharge points must also be

observed during this inspection. If such discharge locations are inaccessible, nearby downstream locations must be inspected.

- Sources of run-on into industrial areas of the facility.
- 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.

5.2.9.1.3 Routine Facility Inspection Documentation: Findings of the facility inspections must be documented and maintained with the SWPPP. Any corrective actions required as a result of a routine facility inspection must be promptly taken. Do not submit routine facility inspection reports to EPA unless specifically requested to do so. However, they must be summarized in the annual report per section 5.2.10. Document all findings, including but not limited to, the following information.

- The inspection date and time;
- The name(s) and signature(s) of the inspector(s);
- The areas of the facility that were inspected;
- Weather information;
- All observations relating to the implementation of control measures at the facility, including:
  - A description of any discharges occurring at the time of the inspection;
  - Any previously unidentified discharges from and/or pollutants at the facility;
  - Any evidence of, or the potential for, pollutants entering the drainage system;
  - Observations regarding the physical condition of and around all discharge points, including any flow dissipation devices, and evidence of pollutants in discharges and/or the receiving water; and
  - Any control measures needing maintenance, repairs, or replacement;
- Any additional control measures needed to comply with permit requirements;
- The precipitation event date and depth, duration and flow rate of discharge from the stormwater lagoon outfall, if a discharge occurs;
- Any incidents of noncompliance; and
- A statement, signed and certified in accordance with section 5.2.6.

5.2.10 Annual Reports: An Annual Report must be submitted to EPA in accordance with section 6.5, by January 30<sup>th</sup> for each year of permit coverage containing information generated from the past calendar year. A copy of each year's annual report must also be kept with the SWPPP. The report must include the following information:

5.2.10.1 A summary of the previous year's routine facility inspection documentation required (see section 5.2.9.1).

5.2.10.2 A summary of the past year's corrective actions, if applicable. At the time the annual

report is submitted, the status of any outstanding corrective action(s) must be described. Also, describe any incidents of noncompliance in the past year or currently ongoing, or if none, provide a statement that the facility is in compliance with the Permit.

- 5.2.10.3 The Annual Report must also include a statement, signed and certified in accordance with section 8.7.2.

## **6 Monitoring, Record Keeping, and Reporting Requirements**

### **6.1 Representative Sampling:**

All samples taken in compliance with the monitoring requirements established under section 4 shall be representative. Effluent samples shall be collected from the effluent stream prior to discharge into the receiving waters. Any influent samples shall be taken of the influent stream at the first influent access point, and if feasible prior to entering any treatment unit. Any receiving water samples shall be collected in a representative location of the receiving stream. Samples and measurements shall be representative of the volume and nature of the monitored discharge, influent, receiving stream, or other monitored location. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use or disposal practice.

### **6.2 Monitoring Procedures:**

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

### **6.3 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. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

### **6.4 Reporting of Monitoring Results:**

With the effective date of this Permit, the Permittee must electronically report DMRs using NetDMR at the frequency and by the due dates specified below. Electronic submissions by permittees must be submitted to 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 8.7 of this Permit (“Signatory Requirements”). NetDMR is accessed from the internet at <https://netdmr.zendesk.com/home>.

Table 4 – DMR Compliance Monitoring Periods and Due Dates

<b>Compliance Monitoring Period</b>	<b>Due Date</b>
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 Ute Indian Tribe. Currently, the Permittee may submit a copy to the Ute Indian 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.

6.5 Other Reporting Requirements:

All reports shall be signed and certified in accordance with the Signatory Requirements (see section 8.7). Paper reports shall be submitted to EPA Region 8, Enforcement and Compliance Assurance Division, Water Enforcement Branch and the Ute Indian 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:

Environmental Coordinator  
Ute Indian Tribe  
P.O. Box 190  
Fort Duchesne, Utah 84026

Prior to December 21, 2025, all other reports required herein (e.g., sections 5.2.10, 6.9 and 6.10) as well as sewer overflow event reports, may be signed and certified in accordance with the Signatory Requirements (see section 8.7), and submitted to EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch and the Ute Indian Tribe at the addresses given above. Effective no later than December 21, 2025, these reports shall be submitted electronically using the NPDES Electronic Reporting Tool (NeT).

6.6 Additional Monitoring by the Permittee:

If the Permittee monitors any pollutant in accordance with section 6.1 more frequently than required by this Permit, using test procedures approved under 40 CFR Part 136, 40 CFR 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.

6.7 Records Contents:

Records of monitoring information shall include:

- 6.7.1 The date, exact place, and time of sampling or measurements;
- 6.7.2 The name(s) of the individual(s) who performed the sampling or measurements;
- 6.7.3 The date(s) analyses were performed;
- 6.7.4 The time(s) analyses were initiated;
- 6.7.5 The name(s) of individual(s) who performed the analyses;
- 6.7.6 References to and, when available, written procedures for the analytical techniques or methods used; and,
- 6.7.7 The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results when analysis is conducted by the Permittee.

6.8 Retention of Records:

The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original 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 CFR Part 503). This period may be extended by request of EPA 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.

6.9 Twenty-Four Hour Notice of Noncompliance Reporting:

- 6.9.1 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 EPA, Region 8, Superfund & Emergency Management Division at (303) 293-1788 and the Ute Indian Tribe at (435) 722-3941.
- 6.9.2 The following occurrences of noncompliance and WET test failures shall be reported by telephone to EPA Region 8's Enforcement and Compliance Assurance Division Water Enforcement Branch at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time) and the Ute Indian Tribe at (435) 722-3941 (8:00 a.m. - 4:30 p.m. Mountain Time) by the first workday following the day the Permittee became aware of the circumstances:
  - 6.9.2.1 Any unanticipated bypass which exceeds any effluent limitation in the Permit (See section 7.8, Bypass of Treatment Facilities.);
  - 6.9.2.2 Any upset which exceeds any effluent limitation in the Permit (See section 7.9, Upset Conditions); or,

6.9.2.3 Violation of a maximum daily discharge limitation for any of the pollutants listed by EPA in the Permit to be reported within 24 hours.

6.9.3 For any noncompliance notification required under sections 6.9.1, 6.9.2, a written submission shall also be provided to EPA Region 8's Enforcement and Compliance Assurance Division Water Enforcement Branch, and to the Ute Indian Tribe within five days of the time that the Permittee becomes aware of the circumstances. The written submission shall contain:

6.9.3.1 A description of the noncompliance and its cause;

6.9.3.2 The period of noncompliance, including exact dates and times;

6.9.3.3 The estimated time noncompliance is expected to continue if it has not been corrected;

6.9.3.4 Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and,

6.9.3.5 The signed certification statement required by the Signatory Requirements (see section 8.7).

6.9.4 EPA may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under section 6.9.2 above, if the incident has been orally reported in accordance with the requirements of section 6.9.2.

6.9.5 Reports shall be submitted to the addresses in section 6.5, Other Reporting Requirements.

#### 6.10 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 6.5 are submitted. The reports shall contain the information listed in section 6.9.3.

#### 6.11 Inspection and Entry:

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

6.11.1 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;

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

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

6.11.4 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.

## 7 Compliance Responsibilities

### 7.1 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 EPA advanced notice of any planned changes at the permitted facility that could change any discharge from the facility, or of any activity that may result in failure to comply with permit conditions.

### 7.2 Penalties for Violations of Permit Conditions:

The Clean Water Act provides for specified civil and criminal monetary penalties for violations of its provisions. EPA is required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (as amended) to annually adjusting statutory civil penalties to reflect inflation, according to a prescribed formula. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 required these adjustments on an annual basis, beginning in 2016. EPA has adjusted its civil monetary penalties effective January 12, 2022 (87 Fed. Reg. 1676-79), and these amounts are adjusted annually as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The civil and criminal penalties for violations of the Act are as follows:

- 7.2.1 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 \$59,973 per day for each violation.
- 7.2.2 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.
- 7.2.3 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.
- 7.2.4 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 Act, 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.

7.2.5 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 \$23,989 per violation, with a maximum amount not to exceed \$59,973. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed \$23,989 per day for each day during which the violation continues, with the maximum amount not to exceed \$299,857.

### 7.3 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.

### 7.4 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.

### 7.5 Inspection Requirements:

7.5.1 On at least a weekly basis when discharging, unless otherwise approved by EPA, the Permittee shall inspect its discharge locations and discharge treatment facilities. The inspection shall entail, at a minimum, a “walk-through” and visual observation of all process treatment units, sampling and flow monitoring equipment, outfalls, and the receiving stream.

7.5.2 The Permittee shall maintain a log in either paper or electronic format recording information obtained during inspection activities. At a minimum, the notebook shall include the following:

7.5.2.1 Date and time of the inspection;

7.5.2.2 Name of the inspector(s);

7.5.2.3 The facility's discharge status;

7.5.2.4 The flow rate of the discharge if occurring;

7.5.2.5 Records of the Operational BMP inspections (see section 5.1). This may include, but is not limited to, recording the outfall and date of: bag filter checks and replacements, pH sensor calibrations, pH sensor cleanings, pH setpoint adjustments, and additions to

or removal of bag filter/pH adjustment controls to outfalls.

- 7.5.2.6 Identification of operational problems and/or maintenance problems;
  - 7.5.2.7 Recommendations, as appropriate, to remedy identified problems;
  - 7.5.2.8 A brief description of any actions taken with regard to problems identified; and,
  - 7.5.2.9 Other information, as appropriate.
- 7.5.3 The Permittee shall maintain daily log in either paper or electronic format in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the Ute Indian Tribe.
- 7.5.4 Problems identified during the inspection shall be corrected at the time of inspection, if possible. If they cannot be corrected at the time of the inspection, the inspector must identify a corrective action to remedy the problem(s), as well as a timeline for completion of the remedy. Corrective actions to remedy problem(s) shall be in line with (and addressed through) proper operation and maintenance (see section 7.6 of the Permit.). All problems identified during inspections, as well as associated corrective actions and timelines, shall be documented in the inspection log.

#### 7.6 Proper Operation and Maintenance:

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the Permit. Proper operation and maintenance also includes application of appropriate Operational BMPs (see section 5.1).

- 7.6.1 The Permittee shall, as soon as reasonable and practicable, but no later than six (6) months after the effective date of this Permit, do the following as part of the operation and maintenance program for the wastewater treatment facility:
- 7.6.1.1 Have a current O & M Manual(s) that describes the proper operational procedures and maintenance requirements of the wastewater treatment facility;
  - 7.6.1.2 Have the O & M Manual(s) readily available to the operator of the wastewater treatment facility and require that the operator become familiar with the manual(s) and any updates;
  - 7.6.1.3 Have a schedule(s) for routine operation and maintenance activities at the wastewater treatment facility; and,
  - 7.6.1.4 Require the operator to perform the routine operation and maintenance requirements in accordance with the schedule(s).
- 7.6.2 The Permittee shall maintain a daily log in either paper or electronic format containing a

summary record of all operation and maintenance activities at the wastewater treatment facility. The Permittee shall maintain the daily log in accordance with proper record-keeping procedures in section 6.8 and shall make the log available for inspection, upon request, by authorized representatives of EPA or the Ute Indian Tribe. At a minimum, the log shall include the following information:

- 7.6.2.1 Date and time;
- 7.6.2.2 Name and title of person(s) making the log entry;
- 7.6.2.3 Name of the persons(s) performing the activity;
- 7.6.2.4 A brief description of the activity; and,
- 7.6.2.5 Other information, as appropriate.

#### 7.7 Removed Substances:

Collected screenings, grit, solids, sludge (including sewage sludge), or other pollutants removed in the course of treatment shall be buried or disposed in a manner consistent with all applicable federal, state, tribal, or local regulations (e.g., 40 CFR Part 257, 40 CFR Part 258, 40 CFR Part 503). Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the United States.

#### 7.8 Bypass of Treatment Facilities:

7.8.1 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 7.8.2 and 7.8.3.

##### 7.8.2 Notice:

7.8.2.1 Anticipated bypass: If the Permittee knows in advance of the need for a bypass, it shall submit prior notice to the addresses in section 6.5, Other Reporting Requirements, if possible at least 10 days before the date of the bypass to EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch, and the Ute Indian Tribe.

7.8.2.2 Unanticipated bypass: The Permittee shall submit notice of an unanticipated bypass as required under section 6.9, Twenty-four Hour Noncompliance Reporting, to EPA Region 8, Enforcement and Compliance Assurance Division, Water Enforcement Branch, and the Ute Indian Tribe.

##### 7.8.3 Prohibition of bypass.

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

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

7.8.3.1.2 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,

7.8.3.1.3 The Permittee submitted notices as required under section 7.8.2.

7.8.3.2 EPA may approve an anticipated bypass, after considering its adverse effects, if EPA determines that it will meet the three conditions listed above in section 7.8.3.1.

## 7.9 Upset Conditions:

7.9.1 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 7.9.2 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).

7.9.2 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:

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

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

7.9.2.3 The Permittee submitted notice of the upset as required under section 6.9, Twenty-four Hour Notice of Noncompliance Reporting; and,

7.9.2.4 The Permittee complied with any remedial measures required under section 7.4, Duty to Mitigate.

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

## 7.10 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.

## 7.11 Discharge of Un-Permitted Toxic Pollutants:

Notification shall be provided to EPA as soon as the Permittee knows of, or has reason to believe:

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

7.11.1.1 One hundred micrograms per liter (100 µg/L);

7.11.1.2 Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;

7.11.1.3 Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR § 122.21(g)(7); or,

7.11.1.4 The level established by EPA in accordance with 40 CFR § 122.44(f).

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

7.11.2.1 Five hundred micrograms per liter (500 µg/L);

7.11.2.2 One milligram per liter (1 mg/L) for antimony;

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

7.11.2.4 The level established by EPA in accordance with 40 CFR § 122.44(f).

## 8 **General Requirements**

### 8.1 Planned Changes:

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

8.1.1 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, nor subject to the notification requirements for the discharge of toxic pollutants in section 7.11.1;

8.1.2 The alteration or addition results in a significant change in the Permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of Permit conditions that are different from or absent in the existing Permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan; or,

8.1.3 The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a New Source.

## 8.2 Anticipated Noncompliance:

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

## 8.3 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.

## 8.4 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 shall be submitted at least 180 days before the expiration date of this Permit, unless permission for a later date has been granted by EPA. Failure to submit a permit application before the permit expiration date will result in immediate Permit expiration.

## 8.5 Duty to Provide Information:

The Permittee shall furnish to EPA, within a reasonable time, any information which 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 EPA, upon request, copies of records required to be kept by this Permit.

## 8.6 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 EPA, it shall promptly submit such facts or information.

## 8.7 Signatory Requirements:

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

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

8.7.2 All reports required by the Permit and other information requested by 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:

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

8.7.2.2 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.)

8.7.3 Changes to authorization: If an authorization under section 8.7.2 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 8.7.2 must be submitted to EPA prior to or together with any reports, information, or applications to be signed by an authorized representative.

8.7.4 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."*

#### 8.8 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.

#### 8.9 Availability of Reports:

Except for data determined to be confidential under 40 CFR Part 2, Subpart B, all reports prepared in accordance with the terms of this Permit shall be available for public inspection. As required by the Act and 40 CFR Part 122.7, permit applications, permits and effluent data shall not be considered confidential.

#### 8.10 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, state, Tribal or local laws or regulations.

#### 8.11 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.

#### 8.12 Transfers:

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

8.12.1 The current Permittee notifies EPA and the Ute Indian Tribe at least 30 days in advance of the proposed transfer date at the addresses in section 6.5;

8.12.2 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;

- 8.12.3 EPA does not notify the existing permittee and the proposed new permittee of EPA's 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 8.12.2.

8.13 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.

8.14 Permittees in Indian Country:

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.

8.15 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:

- 8.15.1 **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.
- 8.15.2 **Wasteload Allocation:** A wasteload allocation is developed and approved by the Ute Indian Tribe and/or EPA for incorporation in this Permit.
- 8.15.3 **Water 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.
- 8.15.4 **Toxicity Limitation:** This Permit may be reopened and modified to include whole effluent toxicity limitations if whole effluent toxicity is detected in the discharge.