



REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75202-2733

NPDES Permit No NM0031228

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"),

U.S. Bureau of Reclamation
555 Broadway Boulevard, NE
Albuquerque, NM 87102

is authorized to discharge from a holding pond, located in Rio Arriba County, NM to receiving water named El Vado Reservoir (Segment No. 20.6.4.120)

the discharge from the facility is located at the following coordinates:

Outfall 001: Latitude 36° 35' 44.65" N, Longitude 106° 43' 57.77" W

in accordance with this cover page and the effluent limitations, monitoring requirements, and other conditions set forth in Part I, Part II, and Part III hereof.

This is a new permit, prepared by Bryn Copson, Physical Scientist, Permitting Section (6WD-PE), and shall become effective on February 10, 2023

This permit and the authorization to discharge shall expire at midnight, February 9, 2028

Issued on February 10, 2023

for Troy C. Hill
Acting Director
Water Division (WD)

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PART I – REQUIREMENTS FOR NPDES PERMITS

SECTION A. LIMITATIONS AND MONITORING REQUIREMENTS

1. FINAL Effluent Limits – Outfall 001 – Batch release

During the period beginning the effective date of the permit and lasting to the permit expiration date (unless otherwise noted), the permittee is authorized to discharge grouting process water from a settling pond with a discharge point named Outfall 001 to receiving waters named El Vado Reservoir subject to Section 20.6.4.120 New Mexico Administrative Code (NMAC). Such discharges shall be limited and monitored by the permittee as specified below.

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	MINIMUM	MAXIMUM	MEASUREMENT FREQUENCY	SAMPLE TYPE
pH	6.6 s.u.	8.8 s.u.	1/Day (*1)	Grab (*4)
Temperature	N/A	Report (°C)	1/Day (*1)	Grab (*4)

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	lbs/day, unless noted		mg/L, unless noted		MEASUREMENT FREQUENCY	SAMPLE TYPE
POLLUTANT	MONTHLY AVG	DAILY MAX	MONTHLY AVG	DAILY MAX		
Flow	Report MGD	Report MGD	N/A	N/A	1/Day (*1)	Estimate (*2)
Turbidity-Ambient Reservoir (*5,*6)	N/A	N/A	N/A	Report (*7)	3/Week (*1)	Grab (*11)
Turbidity-Discharge (*6,*8)	N/A	N/A	N/A	Report (*7)	3/Week (*1)	Grab (*11)
Turbidity (*9,*10)	N/A	N/A	N/A	N/A	1/Week	Calculation

EFFLUENT CHARACTERISTICS	DISCHARGE MONITORING	MONITORING REQUIREMENTS	
		MEASUREMENT FREQUENCY	SAMPLE TYPE
WHOLE EFFLUENT TOXICITY (48- HR Static Renewal/NOEC) (*3)	Value		
Daphnia pulex	Report	1/ 6-months	24-Hr Composite
Pimephales promelas	Report	1/ 6-months	24-Hr Composite

Footnotes:

- *1 Measurements only need to be taken when discharging.
- *2 "Estimate" flow measurements shall not be subject to the accuracy provisions established at Part III.C.6. Flow may be estimated using sound analytical techniques.
- *3 Monitoring and reporting requirements begin on the effective date of this permit. Compliance with the Whole Effluent Toxicity limitations is required on Permit Effective Date. See PART II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions. Grab samples are allowed per method, if needed.
- *4 Regulations at 40 CFR Part 136 generally require "grab" samples to be preserved or analyzed within 15 minutes of collection.
- *5 The ambient reservoir sample point, 01R must be located at least 250 feet from the discharge, as recommended by the NMWQS. Sample must be taken within one (1) hour of sample from discharge sample point 01D.
- *6 The permittee shall report all turbidity measurements taken at sample points 01R and 01D within the reporting period. Results cannot be averaged for reporting purposes (See Part II, Section E, Turbidity Testing).
- *7 Nephelometric turbidity units (NTU).
- *8 Discharge sample point 01D must be sampled after discharge from Outfall 001, but before the discharge enters the reservoir. Sample must be taken within one (1) hour of sample from the ambient reservoir sample point 01R.
- *9 The permittee shall report the total number of test failures for each reporting period. (See Part II, Section E, Turbidity Testing). A test failure constitutes an effluent exceedance.
- *10 If ambient reservoir turbidity <50 NTU, delta <10 NTU; if ambient reservoir turbidity >50 NTU, delta <20% increase. Example calculations are provided in Part II, Section E.
- *11 Samples must be measured using a turbidity meter that reports results in nephelometric turbidity units (NTUs) and conforms with a Part 136-approved method (e.g., methods 180.1 and 2130). You are required to use the meter, and conduct a calibration verification prior to each day's use, consistent with the manufacturer's instructions.

A.2. NARRATIVE CONDITITONS

1. FLOATING SOLIDS, VISIBLE FOAM AND/OR OILS

There shall be no discharge of floating solids or visible foam in other than trace amounts. There shall be no discharge of visible films of oil, globules of oil, grease or solids in or on the water, or coatings on the reservoir bank.

2. BOTTOM DEPOSITS AND SUSPENDED OR SETTLEABLE SOLIDS

Surface waters of the state shall be free of water contaminants including fine sediment particles (less than two millimeters in diameter), precipitates, or organic or inorganic solids from other than natural causes that have settled to form layers on or fill the interstices of the natural or dominant substrate in quantities that damage or impair the normal growth, function, or reproduction of aquatic life or significantly alter the physical or chemical properties of the bottom.

Suspended or settleable solids from other than natural causes shall not be present in surface waters of the state in quantities that damage or impair the normal growth, function or reproduction of aquatic life or adversely affect other designated uses.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge after the treatment system and prior to the receiving surface water or reservoir.

B. EFFLUENT CHARACTERISTIC ANALYSIS

The permittee shall collect an effluent sample within 30 minutes of the first discharge for analysis of effluent characteristics to be consistent with 40 CFR 122.21(k)(5)(vi). Analytical requirements include the pollutants believed to be present in the discharge and human health parameters that were not tested with a SSM, as determined by the pilot study and application, listed below:

Effluent Sample to be Collected within 30 minutes of First Discharge:		
PARAMETER	PARAMETER	PARAMETER
Acrolein	2-Chlorophenol	Fluoranthene
Acrylonitrile	2,4-Dichlorophenol	Fluorene
Benzene	2,4-Dimethylphenol	Hexachlorobenzene
Bromoform	2-Methyl-4-6-Dinitrophenol	Hexachlorobutadiene
Carbon Tetrachloride	2,4-Dinitrophenol	Hexachlorocyclopentadiene
Chlorobenzene	Pentachlorophenol	Hexachloroethane
Chlorodibromomethane	Phenol	Indeno (1,2,3-cd) Pyrene
Chloroform	2,4,6-Trichlorophenol	Isophorone

Effluent Sample to be Collected within 30 minutes of First Discharge:		
PARAMETER	PARAMETER	PARAMETER
Dichlorobromomethane	Acenaphthene	Nitrobenzene
1,2-Dichloroethane	Anthracene	n-Nitrodimethylamine
1,1-Dichloroethylene	Benzydine	n-Nitrosodi-n-Propylamine
1,2-Dichloropropane	Benzo(a)anthracene	n-Nitrosodiphenylamine
1,3-Dichloropropene	Benzo(a)pyrene	Pyrene
Ethylbenzene	Benzo(b)fluoranthene	1,2,4-Trichlorobenzene
Methyl Bromide	Benzo(k)fluoranthene	Aldrin
Methylene Chloride	Bis (2-chloroethyl) Ether	Alpha-BHC
1,1,2,2-Tetrachloroethane	Bis (2-chloroisopropyl) Ether	Beta-BHC
Tetrachloroethylene	Bis (2-ethylhexyl) Phthalate	Gamma-BHC
Toluene	Butyl Benzyl Phthalate	Chlordane
1,2—trans-Dichloroethylene	2-Chloronaphthalene	4,4'-DDT and derivates
1,1,2-Trichloroethane	Chrysene	Dieldrin
Trichloroethylene	Dibenzo(a,h)anthracene	Alpha-Endosulfan
Vinyl Chloride	1,2-Dichlorobenzene	Beta-Endosulfan
Toxaphene	1,3-Dichlorobenzene	Endosulfan sulfate
Dibutyl Phthalate	1,4-Dichlorobenzene	Endrin
2,4-Dinitrotoluene	3,3-Dichlorobenzidine	Endrin Aldehyde
1,2-Diphenylhydrazine	Diethyl Phthalate	Heptachlor 90
Selenium, Dissolved	Dimethyl Phthalate	Heptachlor Epoxide
Selenium, Total Recoverable	Aluminum	Oil and Grease
Quinoline	Total Suspended Solids	Dioxin (Total 2,3,7,8-TCDD Equivalence)
MBAS	Hardness (as CaCO ₃)	Total Dissolved Solids
Formaldehyde	Turbidity (NTU)	Total PCBs (*1)

Whole Effluent Toxicity (WET) Sample to be Collected within 30 minutes of First Discharge:

A WET sample consistent with the requirements outlined in Part II.F of this permit shall be collected within 30 minutes of the first discharge.

Footnotes:

(*1) Because PCBs were detected in the pilot study source water, USEPA Region 6 anticipates NMED may comment and/or condition in the State's CWA Section 401 Certification on the use of the PCB Congener Method in the Final Permit. The permittee is allowed to develop an effluent specific MDL in accordance with Appendix B of 40 CFR Part 136 (instructions in Part II.A of this permit). Human health-based limitations apply.

(*2) Analytical methods shall have detection levels equivalent to or more sensitive than Minimum Quantification Levels listed in Appendix A of Part II.

(*3) Analytical methods must be sufficiently sensitive as defined at 40 CFR 122.21(e)(3). This includes using methods approved in Appendix B of 40 CFR Part 136 or 40 CFR Chapter I, subchapters N and O.

A report with the results from the effluent and WET testing event should be submitted to the U.S. EPA Region 6 Permit Writer by email, and to NMED at the contact information provided in Part III, Standard Conditions of the Permit, within 90 days of the sampling event. If the methods used are not approved in Appendix B of 40 CFR Part 136 or 40 CFR Chapter I, subchapters N and O, retesting using approved methods will be required.

C. SCHEDULE OF COMPLIANCE

None

D. MONITORING AND REPORTING (MINOR DISCHARGERS)

1. Discharge Monitoring Report (DMR) results shall be electronically reported to EPA per 40 CFR 127.16. To submit electronically, access the NetDMR website at https://usepa.servicenowservices.com/oeca_icis?id=netdmr_homepage. Until approved for Net DMR, the permittee shall request temporary or emergency waivers from electronic reporting. To obtain the waiver, please contact: U.S. EPA - Region 6, Water Enforcement Branch, New Mexico State Coordinator (6EN-WC), (214) 665-7179. If paper reporting is granted temporarily, the permittee shall submit the original DMR signed and certified as required by Part III.D.11 and all other reports required by Part III.D. to the EPA and copies to NMED (under Part III.D.4 of the permit).

Discharge Monitoring Report Form(s) shall be submitted quarterly. Each quarterly submittal shall include separate forms for each month of the reporting period.

2. Reporting periods shall end on the last day of the months March, June, September, and December.

3. The first Discharge Monitoring Report(s) shall represent facility operations from the effective date of the permit through the last day of the current reporting period.

4. Thereafter, the permittee is required to submit regular quarterly reports as described above and shall submit those reports postmarked no later than the 28th day of the month following each reporting period.

5. NO DISCHARGE REPORTING

If there is no discharge from any outfall during the sampling month, enter a NODI Code “C” – No Discharge in the NetDMR system.

6. If any daily maximum or monthly average value exceeds the effluent limitations specified in Part I. A, the permittee shall report the excursion in accordance with the requirements of Part III. D.

7. Any daily maximum or monthly average value reported in the required Discharge Monitoring Report which is in excess of the effluent limitation specified in Part I.A shall constitute evidence of violation of such effluent limitation and of this permit.

8. All reports shall be sent both to EPA and the New Mexico Environment Department at the addresses shown in Part III of the permit.

9. The permittee shall send a copy of application for permit renewal to New Mexico Environment Department at the mailing address listed in Part III of the permit.

PART II - OTHER CONDITIONS

A. MINIMUM QUANTIFICATION LEVEL (MQL)

EPA-approved test procedures (methods) for the analysis and quantification of pollutants or pollutant parameters, including for the purposes of compliance monitoring/DMR reporting, permit renewal applications, or any other reporting that may be required as a condition of this permit, shall be sufficiently sensitive. A method is "sufficiently sensitive" when (1) the method minimum level (ML) of quantification is at or below the level of the applicable effluent limit for the measured pollutant or pollutant parameter; or (2) if there is no EPA-approved analytical method with a published ML at or below the effluent limit (see table below), then the method has the lowest published ML (is the most sensitive) of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR Chapter I, Subchapters N or O, for the measured pollutant or pollutant parameter; or (3) the method is specified in this permit or has been otherwise approved in writing by the permitting authority (EPA Region 6) for the measured pollutant or pollutant parameter. The Permittee has the option of developing and submitting a report to justify the use of matrix or sample-specific MLs rather than the published levels. Upon written approval by EPA Region 6 the matrix or sample-specific MLs may be utilized by the Permittee for all future Discharge Monitoring Report (DMR) reporting requirements.

Current EPA Region 6 minimum quantification levels (MQLs) for reporting and compliance are provided in Appendix A of Part II of this permit. The following pollutants may not have EPA approved methods with a published ML at or below the effluent limit, if specified:

POLLUTANT	CAS Number	POLLUTANT	CAS Number
Total Residual Chlorine	782-50-5	Benzo(a)pyrene	50-32-8
Cadmium	7440-43-9	3,4-Benzofluoranthene	205-99-2
Silver	7440-22-4	Benzo(k)fluoranthene (207-08-9)	207-08-9
Thallium	7440-28-0	Indeno(1,2,3-cd) pyrene (193-39-5)	193-39-5
Cyanide	57-12-5	Dibenzo(a, h)anthracene (53-70-3)	53-70-3
Acrolein	107-02-8	Aldrin	309-00-2
Acrylonitrile	107-13-0	Chlordane	57-74-9
4, 6-Dinitro-0-Cresol	534-52-1	Dieldrin	60-57-1
Pentachlorophenol	87-86-5	Heptachlor	76-44-8
Benzidine	92-87-5	Heptachlor epoxide	1024-57-3
Chrysene	218-01-9	Toxaphene	8001-35-2
Hexachlorobenzene	118-74-1	Toxaphene (8001-35-2)	8001-35-2
N-Nitrosodimethylamine	62-75-9	Dioxin (2,3,7,8-TCDD)	1764-01-6
Benzo(a)anthracene	56-55-3		

Unless otherwise indicated in this permit, if the EPA Region 6 MQL for a pollutant or pollutant parameter is sufficiently sensitive (as defined above) and the analytical test result is less than the MQL, then a value of zero (0) may be used for reporting purposes on DMRs. Furthermore, if the EPA Region 6 MQL for a pollutant or parameter is not sufficiently sensitive, but the analytical

test result is less than the published ML from a sufficiently sensitive method, then a value of zero (0) may be used for reporting purposes on DMRs.

B. AUTHORIZED DISCHARGES

Discharges authorized in this individual permit are limited to effluent that results from Phase II & III of the grouting process. Phase I grout process water is not authorized to be discharged. Equipment and materials that will be used for all phases of grouting must be thoroughly cleaned of Phase I grout before they can be used for the subsequent phases. When discharging from basins and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible.

There shall be no discharge of domestic sewage into waters of the United States. Discharges of storm water runoff shall be covered under the NPDES Construction General Permit. A permit modification is required if the permittee decides to discharge from any location other than Outfall 001.

C. 24-HOUR ORAL REPORTING: DAILY MAXIMUM LIMITATION VIOLATIONS

Under the provisions of Part III.D.7.b.(3) of this permit, violations of daily maximum limitations for the following pollutants shall be reported orally to EPA Region 6, Compliance and Assurance Division, Water Enforcement Branch (6EN-W), Dallas, Texas, and concurrently to NMED within 24 hours from the time the permittee becomes aware of the violation followed by a written report in five days.

None

D. PERMIT MODIFICATION AND REOPENER

In accordance with 40 CFR Part 122.44(d), the permit may be reopened and modified during the life of the permit if relevant portions of New Mexico's Water Quality Standards for Interstate and Intrastate Streams are revised, or State of New Mexico water quality standards are established and/or remanded.

In accordance with 40 CFR Part 122.62(a)(2), the permit may be reopened and modified if new information is received that was not available at the time of permit issuance that would have justified the application of different permit conditions at the time of permit issuance. Permit modifications shall reflect the results of any of these actions and shall follow regulations listed at 40 CFR Part 124.5.

E. TURBIDITY TESTING

1. Reporting Turbidity Measurements at Reservoir (01R) and Discharge (01D) Sample Points

Reservoir Sample Point, 01R is located at least 250-feet away from Outfall 001. The Discharge Sample Point, 01D must be sampled after discharge from Outfall 001, but before the discharge enters the reservoir. The difference in measurements is expected to be due primarily, if not exclusively to the discharge of the grouting process water.

Samples must be measured using a turbidity meter that reports results in nephelometric turbidity units (NTUs) and conforms with a 40 CFR Part 136 approved method. You are required to use the meter, and conduct a calibration verification prior to each day's use, consistent with the manufacturer's instructions.

The permittee shall report all turbidity measurements taken at the Reservoir Sample Point (01R) and the Discharge Sample Point (01D) within the reporting period. Reservoir Sample Point 01R shall be reported as STORET Code No. 52330 and Discharge Sample Point 01D shall be reported as STORET Code No. 52350. These values shall not be averaged for reporting purposes.

2. Determining Turbidity Test Results

(a) If turbidity reported at Reservoir Sample Point 01R is 50 NTU or less:

If the difference of the measured turbidity at the Sample Points 01R and 01D is greater than 10 NTU, assign a "1" to the turbidity test; otherwise, assign a "0".

(b) If turbidity reported at Reservoir Sample Point 01R is greater than 50 NTU:

If the difference of the measured turbidity at Sample Points 01R and 01D is greater than 20% of the turbidity recorded from Reservoir Sample Point 01R, assign a "1" to the turbidity test; otherwise, assign a "0".

3. Reporting Total Turbidity Test Failures

(a) If turbidity test failures occur during the reporting period:

Sum the numerical values assigned to each turbidity test taken within the reporting period. Enter this amount for STORET Code No. 51517 in the report.

(b) If no turbidity test failures occur during the reporting period:

Enter a "0" for STORET Code No. 51517 in the report.

4. Example Calculations

In this example, the permittee is required to sample four (4) times within a reporting period:

Sample 1

Reservoir Sample Point 01R turbidity measurement: 20 NTU

Discharge Sample Point 01D turbidity measurement: 25 NTU

Reservoir Sample Point 01R turbidity is less than 50 NTU, therefore 2(a) criteria will be used. The difference of the turbidity at Sample Points 01R and 01D is 5 NTU, which is less than the 10 NTU criteria. Therefore, this sample is a “Pass” and would have a value of “0”.

Sample 2

Reservoir Sample Point 01R turbidity measurement: 20 NTU

Discharge Sample Point 01D turbidity measurement: 40 NTU

Reservoir Sample Point 01R turbidity is less than 50 NTU, therefore 2(a) criteria will be used. The difference of the turbidity at Sample Points 01R and 01D is 20 NTU, which is greater than the 10 NTU criteria. Therefore, this sample is a “Fail” and would have a value of “1”.

Sample 3

Reservoir Sample Point 01R turbidity measurement: 100 NTU

Discharge Sample Point 01D turbidity measurement: 115 NTU

Reservoir Sample Point 01R turbidity is greater than 50 NTU, therefore 2(b) criteria will be used. Twenty percent (20%) of the Reservoir Sample Point 01R turbidity is 20 NTU. The difference of the turbidity at Sample Points 01R and 01D is 15 NTU, which is less than the 20 NTU criteria. Therefore, this sample is a “Pass” and would have a value of “0”.

Sample 4

Reservoir Sample Point 01R turbidity measurement: 100 NTU

Discharge Sample Point 01D turbidity measurement: 150 NTU

Reservoir Sample Point 01R turbidity is greater than 50 NTU, therefore 2(b) criteria will be used. Twenty percent (20%) of the Reservoir Sample Point 01R turbidity is 20 NTU. The difference of the turbidity at Sample Points 01R and 01D is 50 NTU, which is greater than the 20 NTU criteria. Therefore, this sample is a “Fail” and would have a value of “1”.

Sample Reporting

The permittee will report all turbidity measurements from Sample Points 01R and 01D. The permittee shall also sum each pass/fail test result. In this example:

Sample 1: 0

Sample 2: 1

Sample 3: 0

Sample 4: 1

Total: 2

Therefore, the permittee would enter a “2” for STORET Code No. 51517.

F. WHOLE EFFLUENT TOXICITY TESTING (48 HR ACUTE NOEC)

It is unlawful and a violation of this permit for a permittee or his designated agent, to manipulate test samples in any manner, to delay sample shipment, or to terminate or to cause to terminate a toxicity test. Once initiated, all toxicity tests must be completed unless specific authority has been granted by EPA Region 6 or the State NPDES permitting authority.

1. SCOPE AND METHODOLOGY

- a. The permittee shall test the effluent for toxicity in accordance with the provisions in this section.

APPLICABLE TO FINAL OUTFALL(S) 001	
REPORTED AS FINAL OUTFALL	001
CRITICAL DILUTION (%)	100%
EFFLUENT DILUTION SERIES (%)	32%, 42%, 56%, 75%, 100%
TEST SPECIES AND METHODS	Daphnia pulex/ Method 2021.0 (EPA/821/R-02-012 or latest version)
	Pimephales promelas/ Method 2000.0 (EPA-821-R-02-012 or latest version)
SAMPLE TYPE	Defined in PART I

- b. The NOEC (No Observed Lethal Effect Concentration) is herein defined as the greatest effluent dilution at and below which lethality that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. Acute test failure is defined as a demonstration of a statistically significant lethal effect at test completion to a test species at or below the critical dilution
- c. This permit may be reopened to require WET limits, chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.

2. REQUIRED TEST CONDITIONS AND TEST ACCEPTABILITY CRITERIA

The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied, including the following additional criteria:

Condition/Criteria	Daphnia pulex	Pimephales promelas
# of replicates per concentration	4	2
# of organisms per replicate	5	10

# or organisms per concentration	20	20
# of test concentrations per effluent	5 and a control	5 and a control
Holding time *	36 hours for first use	36 hours for first use
Test Acceptability Criteria	≥90% survival of all control organisms.	≥90% survival of all control organisms.
Coefficient of Variation **	40% or less, unless significant effects are exhibited.	40% or less unless significant effects are exhibited.

* If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples and the minimum number of effluent portions are waived during that sampling period. However, the permittee must collect an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent, and must meet the holding time between collection and first use of the sample. When possible, the effluent samples used for the toxicity tests shall be collected on separate days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item 3 of this section.

**Test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%, or a PMSD value greater than the higher value on the range provided.

a. Statistical Interpretation

The statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in the appropriate method manual listed in Part II or the most recent update thereof.

b. Dilution Water

- 1) Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and alkalinity to the closest downstream perennial water for;
 - i. toxicity tests conducted on effluent discharges to receiving water classified as intermittent streams; and
 - ii. toxicity tests conducted on effluent discharges where no receiving water is available due to zero flow conditions.

- 2) If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:
 - i. a synthetic dilution water control which fulfills the test acceptance requirements was run concurrently with the receiving water control;

- ii. the test indicating receiving water toxicity has been carried out to completion,
 - iii. the permittee includes all test results indicating receiving water toxicity with the full report and information required; and
 - iv. the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.
- c. Samples and Composites
- 1) The permittee shall collect two samples (flow-weighted composite if possible) from the outfall(s).
 - 2) The permittee shall collect a second sample (composite samples if possible) for use during the 24-hour renewal of each dilution concentration for each test. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 36 hours for first use of the sample. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite sample. Samples shall be chilled to 6 degrees Centigrade during collection, shipping, and/or storage. A holding time up to 72 hours is allowed upon notification to EPA and NMED of the need for additional holding time.
 - 3) The permittee must collect the composite samples such that the effluent samples are representative of the discharge duration, and of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on an intermittent basis.

3. REPORTING

- a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this part in accordance with the Report Preparation Section of the most current publication of the method manual, for every valid or invalid toxicity test initiated, whether carried to completion or not. The permittee shall retain each full report and submit them upon the specific request of the Agency. For any test which fails, is considered invalid, or which is terminated early for any reason, the full report must be submitted for agency review.
- b. A valid test for each species must be reported during each reporting period specified in PART I of this permit unless the permittee is performing a TRE which may increase the frequency of testing and reporting. One set of biomonitoring data for each species is to be recorded on the DMR for each reporting period. Additional results are reported under the retest codes below.
- c. The permittee shall submit the results of each valid toxicity test on the subsequent monthly DMR for that reporting period as follows below. Submit retest information

clearly marked as such with the following month's DMR. Only results of valid tests are to be reported on the DMR.

Reporting Requirement	Parameter STORET CODE	
	Daphnia pulex	Pimephales promelas
Enter a "1" if the No Observed Effect Concentration (NOEC) for survival is less than the critical dilution, otherwise enter a "0".	TEM3D	TEM6C
Report the NOEC value for survival	TOM3D	TOM6C
Report the highest (critical dilution or control) Coefficient of Variation	TQM3D	TQM6C
(If required) Retest 1 – Enter a "1" if the NOEC for survival is less than the critical dilution, otherwise enter "0".	22418	22415
(If required) Retest 2- Enter a "1" if the NOEC for survival is less than the critical dilution, otherwise enter "0".	22419	22416
(If required) Retest 3- Enter a "1" if the NOEC for survival is less than the critical dilution, otherwise enter "0".	51444	51443

4. MONITORING FREQUENCY REDUCTION

- a. The permittee may apply for a testing frequency reduction upon the successful completion of the first year of testing for a test species, with no lethal or sub-lethal effects demonstrated at or below the critical dilution. If granted, the monitoring frequency for that test species may be reduced to not less than once per year for the less sensitive species (usually the vertebrate species) and not less than twice per year for the more sensitive test species (usually the invertebrate species).
- b. Certification - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria above. In addition, the permittee must provide a list with each test performed including test initiation date, species, and NOECs. Upon review and acceptance of this information, the agency will issue a letter of confirmation of the monitoring frequency reduction. A copy of the letter will be forwarded to the agency's compliance section to update the permit reporting requirements.
- c. Failures - If any test demonstrates lethal or sub-lethal effects at or below the critical dilution at any time during the life of this permit, three monthly retests are required. If a frequency reduction had been granted, the monitoring frequency for the affected test species reverts to once per quarter until the permit is re-issued.
- d. This monitoring frequency reduction applies only until the expiration date of this permit, at which time the monitoring frequency for both test species reverts to once per quarter until the permit is re-issued.

5. PERSISTENT TOXICITY

The requirements of this subsection apply only when a toxicity test demonstrates significant lethal effects at or below the critical dilution. Significant toxic effects, are herein defined as a statistically significant difference at the 95% confidence level between the survival of the appropriate test organism in a specified effluent dilution and the control (0% effluent). If the initial WET test conducted fails, the permittee will conduct three retests. The purpose of retests is to determine the duration of a toxic event. A test that meets all test acceptability criteria and demonstrates significant toxic effects does not need additional confirmation. Such testing cannot confirm or disprove a previous test result. If any valid test demonstrates significant lethal effects to a test species at or below the critical dilution, the frequency of testing for this species is automatically increased to once per quarter with no option for frequency reduction.

a. Retest

The permittee shall conduct a total of three (3) additional tests for any species that demonstrates significant lethal effects at or below the critical dilution. The three additional tests shall be conducted monthly during the next three consecutive months. If testing on a quarterly basis, the permittee may substitute one of the additional tests in lieu of one routine toxicity test. A full report shall be prepared for each test required by this section in accordance with the reporting requirements previously outlined and available upon request from the Agency.

b. Requirement to Initiate a Toxicity Reduction Evaluation

If persistent lethality is demonstrated by failure of one or more retests, the permittee shall initiate Toxicity Reduction Evaluation (TRE) requirements as specified in Part 6 of this section. The permittee shall notify EPA in writing within 5 days of notification of the failure of any retest, and the TRE initiation date will be the test completion date of the first failed retest. A TRE may also be required due to a demonstration of intermittent effects at or below the critical dilution, or for failure to perform the required retests.

6. TOXICITY REDUCTION EVALUATION (TRE)

A TRE is triggered following two test failures (a failure followed by one retest failure).

- a. Within ninety (90) days of confirming lethality in the retests, the permittee shall submit a Toxicity Reduction Evaluation (TRE) Action Plan and Schedule for conducting a TRE to the EPA WET Coordinator at 6WQ-PO. The TRE Action Plan shall specify the approach and methodology to be used in performing the TRE. A TRE is an investigation intended to determine those actions necessary to achieve compliance with water quality based effluent limits by reducing an effluent's toxicity to an acceptable level. A TRE is defined as a step wise process which combines toxicity testing and analyses of the physical and chemical characteristics of a toxic effluent to identify the constituents causing effluent toxicity and/or treatment methods which will reduce the effluent toxicity. The TRE Action Plan shall lead to the successful elimination of effluent toxicity at the critical dilution and include the following:

- 1) Specific Activities. The plan shall detail the specific approach the permittee intends to utilize in conducting the TRE. The approach may include toxicity characterizations, a Toxicity Identification Evaluation (TIE) and confirmation activities, source evaluation, treatability studies, or alternative approaches. When the permittee conducts Toxicity Identification Evaluations to characterize the nature of the constituents causing toxicity, the permittee shall perform multiple characterizations and follow the procedures specified in the documents "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA 600/6-91/003) or alternate procedures. When the permittee conducts Toxicity Identification Evaluations and Confirmations, the permittee shall perform multiple identifications and follow the methods specified in the documents "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081), as appropriate.
 - 2) Sampling Plan (e.g., locations, methods, holding times, chain of custody, preservation, etc.). The effluent sample volume collected for all tests shall be adequate to perform the toxicity test, toxicity characterization, identification and confirmation procedures, and conduct chemical specific analyses when a probable toxicant has been identified; Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity. Where toxicity was demonstrated within 24 hours of test initiation, each composite sample shall be analyzed independently. Otherwise the permittee may substitute a composite sample, comprised of equal portions of the individual composite samples, for the chemical specific analysis;
 - 3) Quality Assurance Plan (e.g., QA/QC implementation, corrective actions, etc.); and
 - 4) Project Organization (e.g., project staff, project manager, consulting services, etc.).
- b. The permittee shall initiate the TRE Action Plan within thirty (30) days of plan and schedule submittal.
 - c. The permittee shall submit a quarterly TRE Activities Report to the EPA WET Coordinator (6WQ-PO) in the months of January, April, July and October, containing information on toxicity reduction evaluation activities including:
 - 1) Any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;

- 2) Any studies/evaluations and results on the treatability of the facility's effluent toxicity; and
- 3) Any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant toxicity at the critical dilution. A copy of the TRE Activities Report shall also be submitted to the state agency.
- 4) Any results and interpretation of any chemical specific analysis, and for any characterization, identification, and confirmation tests performed during the quarter.
- 5) Any changes to the initial TRE plan and schedule that are believed necessary.

d. Finalizing a TRE

The permittee shall submit (to EPA 6WQ-PO) a final report on TRE activities no later than twenty-eight (28) months from confirming toxicity in the retests, which provides information pertaining to the specific control mechanism selected that will, when implemented, result in reduction of effluent toxicity to no significant toxicity at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism. A copy of the final report on TRE Activities shall also be submitted to the state agency.

A TRE may be stopped if there is no toxicity at the critical dilution for a period of 12 consecutive months (with at least monthly testing) following confirmation of toxicity in the retests. The permittee would submit a final report to EPA at that time.

- e. Quarterly testing during the TRE is a minimum monitoring requirement. EPA recommends that permittees required to perform a TRE not rely on quarterly testing alone to ensure success in the TRE, and that additional screening tests be performed to capture toxic samples for identification of toxicants. Failure to identify the specific chemical compound causing toxicity test failure will normally result in a permit limit for whole effluent toxicity limits per federal regulations at 40 CFR 122.44(d)(1)(v).

APPENDIX A of PART II

The following Minimum Quantification Levels (MQL's) are to be used for reporting pollutant data for NPDES permit applications and/or compliance reporting.

POLLUTANTS	MQL µg/l	POLLUTANTS	MQL µg/l
METALS, RADIOACTIVITY, CYANIDE and CHLORINE			
Aluminum	2.5	Molybdenum	10
Antimony	60	Nickel	0.5
Arsenic	0.5	Selenium	5
Barium	100	Silver	0.5
Beryllium	0.5	Thallium	0.5
Boron	100	Uranium	0.1
Cadmium	1	Vanadium	50
Chromium	10	Zinc	20
Cobalt	50	Cyanide	10
Copper	0.5	Cyanide, weak acid dissociable	10
Lead	0.5	Total Residual Chlorine	33
Mercury *1	0.0005 0.005		
DIOXIN			
2,3,7,8-TCDD	0.00001		
VOLATILE COMPOUNDS			
Acrolein	50	1,3-Dichloropropylene	10
Acrylonitrile	20	Ethylbenzene	10
Benzene	10	Methyl Bromide	50
Bromoform	10	Methylene Chloride	20
Carbon Tetrachloride	2	1,1,2,2-Tetrachloroethane	10
Chlorobenzene	10	Tetrachloroethylene	10
Clorodibromomethane	10	Toluene	10
Chloroform	50	1,2-trans-Dichloroethylene	10
Dichlorobromomethane	10	1,1,2-Trichloroethane	10
1,2-Dichloroethane	10	Trichloroethylene	10
1,1-Dichloroethylene	10	Vinyl Chloride	10
1,2-Dichloropropane	10		
ACID COMPOUNDS			
2-Chlorophenol	10	2,4-Dinitrophenol	50
2,4-Dichlorophenol	10	Pentachlorophenol	5
2,4-Dimethylphenol	10	Phenol	10
4,6-Dinitro-o-Cresol	50	2,4,6-Trichlorophenol	10

POLLUTANTS	MQL µg/l	POLLUTANTS	MQL µg/l
BASE/NEUTRAL			
Acenaphthene	10	Dimethyl Phthalate	10
Anthracene	10	Di-n-Butyl Phthalate	10
Benidine	50	2,4-Dinitrotoluene	10
Benzo(a)anthracene	5	1,2-Diphenylhydrazine	20
Benzo(a)pyrene	5	Fluoranthene	10
3,4-Benzofluoranthene	10	Fluorene	10
Benzo(k)fluoranthene	5	Hexachlorobenzene	5
Bis(2-chloroethyl)Ether	10	Hexachlorobutadiene	10
Bis(2-chloroisopropyl)Ether	10	Hexachlorocyclopentadiene	10
Bis(2-ethylhexyl)Phthalate	10	Hexachloroethane	20
Butyl Benzyl Phthalate	10	Indeno(1,2,3-cd)Pyrene	5
2-Chloronaphthalene	10	Isophorone	10
Chrysene	5	Nitrobenzene	10
Dibenzo(a,h)anthracene	5	n-Nitrosodimethylamine	50
1,2-Dichlorobenzene	10	n-Nitrosodi-n-Propylamine	20
1,3-Dichlorobenzene	10	n-Nitrosodiphenylamine	20
1,4-Dichlorobenzene	10	Pyrene	10
3,3'-Dichlorobenzidine	5	1,2,4-Trichlorobenzene	10
Diethyl Phthalate	10		
PESTICIDES AND PCBs			
Aldrin	0.01	Beta-Endosulfan	0.02
Alpha-BHC	0.05	Endosulfan sulfate	0.02
Beta-BHC	0.05	Endrin	0.02
Gamma-BHC	0.05	Endrin Aldehyde	0.1
Chlordane	0.2	Heptachlor	0.01
4,4'-DDT and derivatives	0.02	Heptachlor Epoxide	0.01
Dieldrin	0.02	PCBs	0.2
Alpha-Endosulfan	0.01	Toxaphene	0.3

(MQL's Revised November 1, 2007)

Footnotes:

- *1 Default MQL for Mercury is 0.005 unless Part I of your permit requires the more sensitive Method 1631 (Oxidation / Purge and Trap / Cold vapor Atomic Fluorescence Spectrometry), then the MQL shall be 0.0005.

PART III - STANDARD CONDITIONS FOR NPDES PERMITS**A. GENERAL CONDITIONS****1. INTRODUCTION**

In accordance with the provisions of 40 CFR Part 122.41, et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the "Act") as well as ALL applicable regulations.

2. DUTY TO COMPLY

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. TOXIC POLLUTANTS

a. Notwithstanding Part III.A.5, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.

b. 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 established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

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. The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date. Continuation of expiring permits shall be governed by regulations promulgated at 40 CFR Part 122.6 and any subsequent amendments.

5. PERMIT FLEXIBILITY

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62-64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. PROPERTY RIGHTS

This permit does not convey any property rights of any sort, or any exclusive privilege.

7. DUTY TO PROVIDE INFORMATION

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

8. CRIMINAL AND CIVIL LIABILITY

Except as provided in permit conditions on "Bypassing" and "Upsets", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

9. 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.

10. STATE LAWS

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 established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

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.

B. PROPER OPERATION AND MAINTENANCE

1. NEED TO HALT OR REDUCE 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. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

2. DUTY TO MITIGATE

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. PROPER OPERATION AND MAINTENANCE

- a. 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 permittee as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will 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 backup 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 this permit.
- b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

4. BYPASS OF TREATMENT FACILITIES

a. 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 Parts III.B.4.b. and 4.c.

b. NOTICE

(1)ANTICIPATED BYPASS

If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2)UNANTICIPATED BYPASS

The permittee shall, within 24 hours, submit notice of an unanticipated bypass as required in Part III.D.7.

c. PROHIBITION OF BYPASS

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

- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (b) 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 judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
- (c) The permittee submitted notices as required by Part III.B.4.b.

(2) The Director may allow an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed at Part III.B.4.c(1).

5. UPSET CONDITIONS

a. EFFECT OF AN UPSET

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part III.B.5.b. 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.

b. CONDITIONS NECESSARY FOR A DEMONSTRATION OF UPSET

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated;
- (3) The permittee submitted notice of the upset as required by Part III.D.7; and,
- (4) The permittee complied with any remedial measures required by Part III.B.2.

c. BURDEN OF PROOF

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

6. REMOVED SUBSTANCES

Unless otherwise authorized, solids, sewage sludges, filter backwash, or other pollutants removed in the course of treatment or wastewater control shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

7. PERCENT REMOVAL (PUBLICLY OWNED TREATMENT WORKS)

For publicly owned treatment works, the 30-day average (or Monthly Average) percent removal for Biochemical Oxygen Demand and Total Suspended Solids shall not be less than 85 percent unless otherwise authorized by the permitting authority in accordance with 40 CFR 133.103.

C. MONITORING AND RECORDS

1. INSPECTION AND ENTRY

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by the law to:

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

2. REPRESENTATIVE SAMPLING

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

3. 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 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

4. RECORD CONTENTS

Records of monitoring information shall include:

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

- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

5. MONITORING PROCEDURES

- a. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.
- b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.
- c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

6. FLOW MEASUREMENTS

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than 10% from true discharge rates throughout the range of expected discharge volumes.

D. REPORTING REQUIREMENTS

1. PLANNED CHANGES

a. INDUSTRIAL PERMITS

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

- (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b); or,
- (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements listed at Part III.D.10.a.

b. MUNICIPAL PERMITS

Any change in the facility discharge (including the introduction of any new source or significant discharge or significant changes in the quantity or quality of existing discharges of pollutants) must be reported to the permitting authority. In no case are any new connections, increased flows, or significant changes in influent quality permitted that will cause violation of the effluent limitations specified herein.

2. ANTICIPATED NONCOMPLIANCE

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

3. TRANSFERS

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

4. DISCHARGE MONITORING REPORTS AND OTHER REPORTS

Discharge Monitoring Report (DMR) results shall be electronically reported to EPA per 40 CFR 127.16. To submit electronically, access the NetDMR website at <https://netdmr.epa.gov>. Until approved for Net DMR, the permittee shall request temporary or emergency waivers from electronic reporting. To obtain the waiver, please contact: U.S. EPA - Region 6, Water

Enforcement Branch, New Mexico State Coordinator (6ECD-W), (214) 665-7179. If paper reporting is granted temporarily, the permittee shall submit the original DMR signed and certified as required by Part III.D.11 and all other reports required by Part III.D. to the EPA and copies to NMED as required. Duplicate copies of all other reports shall be submitted to NMED at the following address(es):

EPA:

Enforcement & Compliance Assurance Division
Water Enforcement Branch (6ECD-W)
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270

New Mexico:

New Mexico Environment Department
Surface Water Quality Bureau
Point Source Program Manager
P.O. Box 5469
1190 Saint Francis Drive
Santa Fe, NM 87502-5469
psrs.program.manager@state.nm.us (email preferred)

In addition, the owner/operator will be required to submit paper copies of the DMR's, or if the owner/operator is approved by EPA to use NetDMR, paper DMR equivalent data and all other reports to the Tribal government(s) listed at the following address(es):

Jicarilla Apache Nation

Jicarilla Apache Nation
Environmental Program Director
PO Box 507
Dulce, NM 87528

5. ADDITIONAL MONITORING BY THE PERMITTEE

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 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 Discharge Monitoring Report (DMR). Such increased monitoring frequency shall also be indicated on the DMR.

6. AVERAGING OF MEASUREMENTS

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

7. TWENTY-FOUR HOUR REPORTING

a. The permittee shall report any noncompliance which may endanger health or the environment. Notification shall be made to the EPA at the following e-mail address: R6_NPDES_Reporting@epa.gov, as soon as possible, but within 24 hours from the time the permittee becomes aware of the circumstance. Notification shall also be made to the New Mexico Environment Department at (505) 827-0187 or psrs.program.manager@state.nm.us as soon as possible, but within 24 hours from the time the permittee becomes aware of the circumstance. Oral notification shall also be to the Jicarilla Apache Nation at (575) 759-7421 (within 8 hours of the noncompliance violation). A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain the following information:

- (1) A description of the noncompliance and its cause;
- (2) The period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,
- (3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

b. The following shall be included as information which must be reported within 24 hours:

- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
- (2) Any upset which exceeds any effluent limitation in the permit; and,
- (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part II (industrial permits only) of the permit to be reported within 24 hours.

c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

8. OTHER NONCOMPLIANCE

The permittee shall report all instances of noncompliance not reported under Parts III.D.4 and D.7 and Part I.B (for industrial permits only) at the time monitoring reports are submitted. The reports shall contain the information listed at Part III.D.7.

9. OTHER INFORMATION

Where 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 in any report to the Director, it shall promptly submit such facts or information.

10. CHANGES IN DISCHARGES OF TOXIC SUBSTANCES

All existing manufacturing, commercial, mining, and silvacultural permittees shall notify the Director as soon as it knows or has reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (1) One hundred micrograms per liter (100 µg/L);
- (2) Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2, 4-dinitro-phenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
- (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the Director.

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

- (1) Five hundred micrograms per liter (500 µg/L);
- (2) One milligram per liter (1 mg/L) for antimony;
- (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the Director.

11. SIGNATORY REQUIREMENTS

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

- a. ALL PERMIT APPLICATIONS shall be signed as follows:

- (1) FOR A CORPORATION - by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) FOR A PARTNERSHIP OR SOLE PROPRIETORSHIP - by a general partner or the proprietor, respectively.
- (3) FOR A MUNICIPALITY, STATE, FEDERAL, OR OTHER PUBLIC AGENCY - by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - (a) The chief executive officer of the agency, or

- (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- b. ALL REPORTS required by the permit and other information requested by the Director 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:
- (1) The authorization is made in writing by a person described above;
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,
 - (3) The written authorization is submitted to the Director.
- c. 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 gathered and evaluated 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 have no personal knowledge that the information submitted is other than 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"

12. AVAILABILITY OF REPORTS

Except for applications, effluent data permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

E. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS

1. CRIMINAL

a. NEGLIGENT VIOLATIONS

The Act provides that any person who negligently violates permit conditions implementing Section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 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 of not more than 2 years, or both.

b. KNOWING VIOLATIONS

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 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 of not more than 6 years, or both.

c. KNOWING ENDANGERMENT

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by 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 of 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.

d. FALSE STATEMENTS

The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act,

shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 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 shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309.c.4 of the Clean Water Act)

2. CIVIL PENALTIES

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$37,500 per day for each violation.

3. ADMINISTRATIVE PENALTIES

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

a. CLASS I PENALTY

Not to exceed \$16,000 per violation nor shall the maximum amount exceed \$37,500.

b. CLASS II PENALTY

Not to exceed \$16,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$177,500.

F. DEFINITIONS

All definitions contained in Section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in this permit, additional definitions of words or phrases used in this permit are as follows:

1. ACT means the Clean Water Act (33 U.S.C. 1251 et. seq.), as amended.
2. ADMINISTRATOR means the Administrator of the U.S. Environmental Protection Agency.
3. APPLICABLE EFFLUENT STANDARDS AND LIMITATIONS means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards or performance, toxic effluent standards and prohibitions, and pretreatment standards.
4. APPLICABLE WATER QUALITY STANDARDS means all water quality standards to which a discharge is subject under the Act.
5. BYPASS means the intentional diversion of waste streams from any portion of a treatment facility.
6. DAILY DISCHARGE means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day. "Daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be arithmetic average (weighted by flow value) of all samples collected during that sampling day.
7. DAILY MAXIMUM discharge limitation means the highest allowable "daily discharge" during the calendar month.
8. DIRECTOR means the U.S. Environmental Protection Agency Regional Administrator or an authorized representative.
9. ENVIRONMENTAL PROTECTION AGENCY means the U.S. Environmental Protection Agency.
10. GRAB SAMPLE means an individual sample collected in less than 15 minutes.
11. INDUSTRIAL USER means a non-domestic discharger, as identified in 40 CFR 403, introducing pollutants to a publicly owned treatment works.
12. MONTHLY AVERAGE (also known as DAILY AVERAGE) discharge limitations means the highest allowable average of "daily discharge(s)" over a calendar month, calculated as the sum of all "daily discharge(s)" measured during a calendar month divided by the number of "daily discharge(s)" measured during that month. When the permit establishes daily average concentration effluent limitations or conditions, the daily average concentration means the arithmetic average (weighted by flow) of all "daily discharge(s)" of concentration determined during the calendar month where C = daily concentration, F = daily flow, and n = number of daily samples; daily average discharge =

$$\frac{C_1F_1 + C_2F_2 + \dots + C_nF_n}{F_1 + F_2 + \dots + F_n}$$

13. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the Act.
14. 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.
15. SEWAGE SLUDGE means the solids, residues, and precipitates separated from or created in sewage by the unit processes of a publicly owned treatment works. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and storm water runoff that are discharged to or otherwise enter a publicly owned treatment works.
16. TREATMENT WORKS means any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial wastes of a liquid nature to implement Section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and their appurtenances, extension, improvement, remodeling, additions, and alterations thereof.
17. 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.
18. FOR FECAL COLIFORM BACTERIA, a sample consists of one effluent grab portion collected during a 24-hour period at peak loads.
19. The term "MGD" shall mean million gallons per day.
20. The term "mg/L" shall mean milligrams per liter or parts per million (ppm).
21. The term "µg/L" shall mean micrograms per liter or parts per billion (ppb).
22. MUNICIPAL TERMS
 - a. 7-DAY AVERAGE or WEEKLY AVERAGE, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week. The 7-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - b. 30-DAY AVERAGE or MONTHLY AVERAGE, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. The 30-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.
 - c. 24-HOUR COMPOSITE SAMPLE consists of a minimum of 12 effluent portions collected at equal time intervals over the 24-hour period and combined proportional to flow or a sample collected at frequent intervals proportional to flow over the 24-hour period.
 - d. 12-HOUR COMPOSITE SAMPLE consists of 12 effluent portions collected no closer together than one hour and composited according to flow. The daily sampling intervals shall include the highest flow periods.
 - e. 6-HOUR COMPOSITE SAMPLE consists of six effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.
 - f. 3-HOUR COMPOSITE SAMPLE consists of three effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.