

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 Rosebud Hotel and Casino

is authorized to discharge from its wastewater treatment facility located within the boundaries of the Rosebud Indian Reservation of the Rosebud Sioux Tribe, in the Northeast 1/4 of Section 23, Township 35, Range 28, at latitude 43.0005° N and longitude 100.5763° W, Todd County, South Dakota,

to an Unnamed Tributary to Rock Creek

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 **October 1, 2023**

This Permit and the authorization to discharge shall expire at midnight, **September 30, 2028**

Authorized Permitting Official

Darcy O’Connor, Director
Water Division

NPDES BP (Rev.11/2021)

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1 Definitions

The *7-day (weekly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the average of “daily discharges” over 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. 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 § 122.2)

The *30-day (monthly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the average of “daily discharges” over 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. 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 § 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 § 122.2)

Bypass means the intentional diversion of waste streams from any portion of a treatment facility. (40 CFR § 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 § 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, not 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 §§ 122.2, see “daily discharge” and “maximum daily discharge limitation”)

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

E. coli means *Escherichia coli*.

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.

$$GeoMean = \sqrt[n]{(X_1 X_2 X_3 \dots X_n)}$$

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.

Industrial User or *User* means a source of Indirect Discharge, which is the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act. (40 CFR §§ 403.3(i) and (j))

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

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

Interference means an indirect discharge from an Industrial User which, alone or in conjunction with a discharge or discharges from other sources, both:

- (a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (b) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following

statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act. (40 CFR § 403.3(k))

Narrative limit means a narrative condition that must be met (e.g., The discharge must be free from a visible sheet). *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 the Act which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with Section 306 of the Act 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 § 122.2)

Pass Through means an Indirect Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation). (40 CFR § 403.3(p))

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

Permittee means the “person” as defined either by Section 502(5) of the Act or 40 CFR § 122.2, including an agent or employee thereof, authorized to discharge under this Permit. (Section 502(5) of the Act, 40 CFR § 122.2)

Publicly Owned Treatment Works or *POTW* means a treatment works as defined by Section 212 of the Act, which is owned by a State or municipality (as defined by Section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant, which means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste. The term POTW also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works. (40 CFR § 403.3(q) and (r))

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 § 122.41(m)(1)(ii))

Sewage Sludge means any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to solids removed during primary, secondary, or advanced wastewater 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 § 122.2)

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

Sufficiently Sensitive – An analytical 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 § 122.44(i)(1)(iv)(A))

Toxicity Identification Evaluation (TIE) means a set of procedures to identify the specific chemicals or pathogens responsible for effluent toxicity. (U.S. EPA Office of Water, March 1991, Technical Support Document for Water Quality-based Toxics Control [EPA/505/2-90-001], pg. xxi)

Toxicity Reduction Evaluation (TRE) means a site-specific study conducted in a stepwise process designed to identify the causative agents of effluent toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in effluent toxicity after control measures are put in place. (U.S. EPA Office of Water, March 1991, Technical Support Document for Water Quality-based Toxics Control [EPA/505/2-90-001], pg. xxi)

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 § 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 (Table 1). Discharges at any location not authorized under a NPDES Permit is a violation of the Clean Water Act and could subject the person(s) responsible for such discharge to penalties under Section 309 of the Act.

Table 1. Description of Discharge and Monitoring Points

Outfall Serial Number	Latitude/Longitude	Receiving Water	Description
001	Latitude 43.0005° N, Longitude 100.5763° W	Unnamed Tributary to Rock Creek	Effluent discharged from the wastewater treatment facility discharge pipe
001-I	N/A	N/A	Influent monitoring location upstream of all wastewater treatment facility treatment units and after all flows combine. Location must be documented in sampling records.

3 Effluent Limitations

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 Outfall 001

Effluent Characteristic	30-Day Average Effluent Limitations <u>a/</u>	7-Day Average Effluent Limitations <u>a/</u>	Daily Maximum Effluent Limitations <u>a/</u>
Flow, gpd	Report only	N/A	Report only
Biochemical Oxygen Demand (BOD ₅), mg/L	30	45	N/A
BOD ₅ , percent removal <u>b/</u>	≥ 85%	N/A	N/A
Total Suspended Solids (TSS), mg/L	30	45	N/A
TSS, percent removal <u>b/</u>	≥ 85%	N/A	N/A
<i>Escherichia coli</i> (<i>E. coli</i>), Number/100 mL <u>c/</u>	126	N/A	410
Oil and Grease (O&G), mg/L	N/A	N/A	10
Total Ammonia Nitrogen (as N), mg/L	Report only	N/A	Report only
Total Nitrogen, mg/L	Report only	N/A	Report only
Total Phosphorus, mg/L	Report only	N/A	Report only
Temperature, °C	N/A	N/A	Report only
pH, standard units	Must remain in the range of 6.0 to 9.0 <i>at all times</i>		
Oil and Grease (Narrative Limit)	There shall be no visible sheen in the receiving water or adjoining shoreline.		

Effluent Characteristic	30-Day Average Effluent Limitations <u>a/</u>	7-Day Average Effluent Limitations <u>a/</u>	Daily Maximum Effluent Limitations <u>a/</u>
Floating Solids and Foam (Narrative Limit)	There shall be no discharge of visible floating solids or foam in other than trace amounts.		

a/ See section 1 for definition of terms.

b/ Percentage Removal Requirements (TSS and BOD₅ Limitation): In addition to the concentration limits for total suspended solids and BOD₅ indicated above, the arithmetic mean of the concentration for effluent samples collected in a 30-day consecutive period shall not exceed 15 percent of the arithmetic mean of the concentration for influent samples collected at approximately the same times during the same period (i.e., a minimum 85 percent removal).

c/ The 30-day average limit for *E. coli* shall be reported as a geometric mean. See section 1, Definitions for more information.

4 Self-Monitoring and Data Requirements

Self-monitoring shall be conducted effective immediately and last 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 unless another method is required under 40 CFR subchapters N or O, as required in 40 CFR § 122.41(j). At a minimum, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report (DMR) that no discharge occurred. See Reporting of Monitoring Results, section 7.4, for more details.

Table 3. Monitoring and Reporting Requirements

Outfall	Effluent Characteristic	Monitoring Frequency	Sample Type <u>a/</u>	Data Value Reported on DMR <u>b/</u>
001	Flow, gpd <u>c/</u>	Daily	Grab	Daily Max. 30-Day Avg.
001	BOD ₅ , mg/L <u>d/</u>	Monthly	Composite	30-Day Avg. 7-Day Avg.
001	BOD ₅ , % removal	Monthly	Calculated	30-Day Avg. % removal
001-I	BOD ₅ , mg/L <u>d/</u>	Monthly	Composite	None (use for % removal calculation)
001	TSS, mg/L <u>d/</u>	Monthly	Composite	30-Day Avg. 7-Day Avg.
001	TSS, % removal	Monthly	Calculated	30-Day Avg. % removal

Outfall	Effluent Characteristic	Monitoring Frequency	Sample Type a/	Data Value Reported on DMR b/
001-I	TSS, mg/L <u>d/</u>	Monthly	Composite	None (use for % removal calculation)
001	<i>E. coli</i> , number/100 mL	Monthly	Grab	Daily Max. 30-Day Avg.
001	O&G, mg/L	Immediately if visual sheen detected	Grab	Daily Max.
001	Total Ammonia Nitrogen (as N), mg/L	Quarterly	Composite	Daily Max. 30-Day Avg.
001	Total Nitrogen, mg/L	Quarterly	Composite	Daily Max. 30-Day Avg.
001	Total Phosphorus, mg/L	Quarterly	Composite	Daily Max. 30-Day Avg.
001	Temperature, °C <u>g/</u>	Quarterly	Grab	Minimum Maximum
001	pH, standard units <u>e/</u>	Monthly	Grab	Minimum Maximum
001	O&G, visual	Weekly	Visual	Narrative
001	Floating Solids and Foam <u>f/</u>	Weekly	Visual	Narrative

a/ See section 1 for definition of terms.

b/ If only one sample is taken during the reporting period, that value may be reported as multiple required data types (e.g., if only one ammonia sample is taken at a location that quarter, it should be reported as both the “Daily Max.” and the “30-Day Avg.” for that quarter at that location).

Daily Max. – Report the highest daily maximum value for the DMR period. Use a geometric mean to average more than one *E. coli* sample collected during a day.

7-Day Avg. – Calculate the 7-day (weekly) average for each calendar week in the DMR period that one or more samples were collected and report the highest 7-day average for the DMR period. Use a geometric mean to average more than one *E. coli* sample collected during a calendar week.

30-Day Avg. – Calculate and report the 30-Day average for each calendar month. Use a geometric mean to average more than one *E. coli* sample collected during a month.

30-Day Avg. % removal – Calculate the 30-Day Avg. in the influent for each month and effluent for each month and then calculate and report the 30-Day Avg. percent removal for the month using the following equation: 30-Day Avg. percent removal = (influent 30-Day Avg. – effluent 30-Day Avg.)/influent 30-Day Avg. x 100%.

Maximum and Minimum – Report the extreme high and low measurements for the reporting period. If only one sample was collected during the reporting period, this will be the same value for both.

Narrative – For visual observations, report “Yes” if the parameter was ever detected during the reporting period; report “No” if the parameter was never detected during the reporting period.

- c/ 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 in gallons per day and the maximum flow rate in gallons per day observed during the reporting period shall be reported.
- d/ Samples shall be collected for these characteristics at final discharge location (Outfall 001) and the influent monitoring location (Outfall 001-I) on the same day.
- e/ This sample must be analyzed within 15 minutes of collection per 40 CFR Part 136.
- f/ A weekly visual observation for floating solids and foam is required, recorded in the log and reported.
- g/ Sample must be taken as close in time as feasible with the effluent ammonia sample at Outfall 001.

5 Special Conditions

There are no special conditions in the Permit.

6 Inspections, Corrective Actions, and Operation and Maintenance

6.1 Logs and Documentation:

This section requires activities for inspections, corrective actions, and maintenance to be documented in a paper or electronic log(s). The Permittee may have one log or multiple logs to document these activities. The Permittee shall maintain the log(s) of inspections, corrective actions, and maintenance in either paper or electronic format in accordance with record-keeping requirements in section 7.8 and shall make the log(s) available for inspection, upon request, by authorized representatives of the EPA.

6.2 Inspection Requirements:

- 6.2.1 On at least a weekly basis, unless otherwise approved by the Permit issuing authority, the Permittee shall inspect its wastewater treatment facility by performing a “walkthrough” and visual observation of all process treatment units, sampling and flow monitoring equipment, outfalls, and the receiving stream. In addition, the Permittee shall observe, at a minimum, for the following:
 - 6.2.1.1 Determine if there is a visible sheen, floating oil, floating solids and/or foam;
 - 6.2.1.2 Determine if proper operation and maintenance procedures are being undertaken at the wastewater treatment facility.
 - 6.2.1.3 Ultraviolet Disinfection System: The Permittee shall visually inspect the condition of the UV bulbs/tubes surface for constituent coverage and the quality of effluent entering the UV inlet (i.e. floating debris and turbidity or clarity (low, medium, high)). The bulbs/tubes shall be cleaned on a frequent basis per manufacturer’s recommendations to provide maximum disinfection. Date of visual inspection and cleaning shall be recorded in the log.

- 6.2.1.4 Grease Interceptor Trap: The Permittee shall visually inspect the condition of the trap for accumulation of oil and grease. The Permittee shall maintain and remove the contents of the mechanical grease interceptor at appropriate intervals to ensure that the accumulated solids and oil-grease layers are hauled off-site and do not bypass the capacity of the grease interceptor. Also to be avoided is the bypassing of the functionality or intended purpose of the interceptor as a means of separating solids, grease and oils from the wastewater prior to the wastewater entering the treatment facility. The Permittee shall maintain records in the log, receipts, and manifests of interceptor maintenance pumping events and off-site hauling, according to the recordkeeping requirements in section 6.3.2 of the Permit.
- 6.2.1.5 Lift Station: The Permittee shall visually inspect the condition of the pump(s), wet well, controls, etc. Cleaning frequency of facility shall be as required per manufacturer's recommendations to provide maximum lift station efficiency. Date of visual inspection and cleaning shall be recorded in the log, along with pump cycle frequency and cumulative hours the pump(s) have run since the previous inspection. This information can be used to inform the health and proper functioning of the pump(s).
- 6.2.2 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:
- 6.2.2.1 Date and time of the inspection;
 - 6.2.2.2 Name of the inspector(s);
 - 6.2.2.3 The condition or status of all aspects required to be inspected in section 6.2.1;
 - 6.2.2.4 Identification of operational problems and/or maintenance problems;
 - 6.2.2.5 Corrective actions, as appropriate, to remedy identified problems, the planned date for each corrective action, and the actual date each corrective action was taken; and,
 - 6.2.2.6 Other information, problems identified, or observations, as appropriate.
- 6.2.3 Problems identified during the inspection including, but not limited to, those associated with section 6.2.1 of the Permit, 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 and document a corrective action to remedy the problem(s), as well as a timeline for completion of the remedy. The corrective action shall be completed by the time specified. Corrective actions to remedy problem(s) shall be in line with and addressed through proper operation and maintenance (section 6.3 of the Permit). All problems identified during inspections, as well as associated corrective actions and timelines, shall be documented in the inspection log.

6.3 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.

- 6.3.1 Operation and Maintenance Program: The Permittee shall complete the following as part of the operation and maintenance program for the wastewater treatment facility:
- 6.3.1.1 Have a current Operation and Management Manual(s) (O&M Manual(s)) that describes the proper operational procedures and maintenance requirements of the wastewater treatment facility, as required by the previous permit, and make any necessary updates as soon as possible, but no later than six (6) months after the effective date of this Permit. Maintain and implement the O & M Manual(s);
 - 6.3.1.2 Have the O&M Manual(s) readily available (e.g., on-site) to the operator of the wastewater treatment facility and require that the operator become familiar with the manual(s) and any updates;
 - 6.3.1.3 Have a documented schedule(s) for routine operation and maintenance activities at the wastewater treatment facility; and,
 - 6.3.1.4 Require the operator to perform the routine operation and maintenance requirements in accordance with the schedule(s) and document them in a log in accordance with 6.3.2.
- 6.3.2 Operation and Maintenance Log: The Permittee shall maintain a log in either paper or electronic format containing a summary record of all operation and maintenance activities at the wastewater treatment facility. Activities shall be recorded within 48 hours of completing the activity. At a minimum, the log shall include the following information:
- 6.3.2.1 Date and time;
 - 6.3.2.2 Name and title of person(s) making the log entry;
 - 6.3.2.3 Name of the persons(s) performing the activity;
 - 6.3.2.4 A brief description of the activity; and,
 - 6.3.2.5 Other information, as appropriate.

6.3.3 Asset Management Plan: The Permittee shall, as soon as possible, but no later than one year after the effective date of this Permit, develop, maintain, and implement an asset management plan (AMP) to cover the treatment facility and collection system.

6.3.3.1 The AMP shall include an inventory of all critical assets in a single list, spreadsheet, or database. Critical assets may include, but are not limited to, sewer lines, manholes, outfalls, lift stations, force mains, catch basins, flow meters, and wastewater treatment facility assets and/or any other asset which are critical to operations would require significant capital expenditures to replace or repair. Each entry shall include:

6.3.3.1.1 Name and identification number (if applicable).

6.3.3.1.2 Location (GPS coordinate or equivalent identifier).

6.3.3.1.3 Current performance/condition and any upcoming replacement needs before the Permit expiration date.

6.3.3.1.4 Purchase and installation date (if known).

6.3.3.1.5 Purchase price (if known).

6.3.3.1.6 Replacement cost (if known).

6.3.3.2 The AMP shall include a treatment system map showing the sewer collection system it owns and operates including the wastewater treatment system. The map shall be of sufficient detail and at a scale to allow easy interpretation. The treatment system information shown on the map shall be based on current conditions and shall be kept up to date and available for review by federal agencies. Map(s) shall include, but not be limited to, the following:

6.3.3.2.1 All sanitary sewer lines and related manholes;

6.3.3.2.2 All outfalls of the system or the treatment plant outfall(s);

6.3.3.2.3 All pump stations and force mains;

6.3.3.2.4 The wastewater treatment facility(ies);

6.3.3.2.5 All surface waters (labeled);

6.3.3.2.6 A scale bar and a north arrow;

6.3.3.3 The AMP shall identify emerging or increased threats to the facility resulting from long-term compliance concerns, such as flooding risk, risk of wildfires, or drought risk, that may impact compliance between the start of the current permit and the year 2050. The Permittee shall project upgrades to existing assets, relocation of existing infrastructure, new infrastructure projects, and

additional operation and maintenance along with associated costs, necessary to ensure continued compliance. The Permittee should consider optimizing energy efficiency in the treatment system and collection system (where applicable).

- 6.3.3.4 Further guidance on implementing an AMP may be found on EPA’s website “Check Up Program for Small Systems (“CUPSS”) Asset Management Tool” (<https://www.epa.gov/dwcapacity/information-check-program-small-systems-cupss-asset-management-tool>).
- 6.3.4 Staff and Funding: The Permittee shall provide adequate staff and funding to carry out the operation, maintenance, repair, and testing functions required to ensure compliance with the terms and conditions of this Permit. The level of staffing needed, in numbers, training and experience, shall be determined taking into account the work involved in operating the system, conducting maintenance, and complying with this Permit. The Permittee may be required to provide EPA documentation on the sources or revenue, annual budgets, annual expenses, and staffing.

7 Monitoring, Record Keeping, and Reporting Requirements

7.1 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 activity, 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.

7.2 Monitoring Procedures:

Monitoring must be conducted according to test procedures approved by EPA under 40 CFR Part 136 or as required under 40 CFR subchapters N or O, 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.

7.3 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.

7.4 Reporting of Monitoring Results:

Upon the effective date of this Permit, the Permittee must electronically report discharge monitoring reports (DMRs) using NetDMR at the frequency and by the due dates specified in Table 4, below.

Table 4. DMR Compliance Monitoring Periods and Due Dates

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

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 Signatory Requirements (see section 9.7). NetDMR is accessed from the internet at https://usepa.servicenowservices.com/oeca_icis?id=netdmr_homepage.

In addition, the Permittee must submit a copy of the DMR to the Rosebud Sioux Tribe (the Tribe). Currently, the Permittee may submit a copy to the Tribe by one of three ways:

1. a paper copy may be mailed;
2. the email address may be added to the electronic submittal through NetDMR; or,
3. the Permittee may provide viewing rights through NetDMR.

The following paragraph specifies how monitoring results collected more frequently than quarterly should be reported on a quarterly basis. For parameters with monthly monitoring frequencies, monitoring results obtained during the previous three (3) months shall be separately summarized for *each month* and reported in NetDMR by the dates listed in Table 4. For parameters with monitoring frequencies required more often than monthly (e.g., daily or weekly), monitoring results shall be separately summarized for each month in a similar manner as above, with the additional condition that the specific reporting requirements for some parameters are identified in Table 3 (Monitoring and Reporting Requirements) and its footnotes. One data point or no data indicator code must be reported for *each month* for each applicable column with an effluent limit or noted as “report only” in Table 2 (Effluent Limitations for Outfall 001).

Additional requirements for data entered in NetDMR are as follows:

1. Requirements for the data values to report for each parameter (e.g., daily maximum, 30-day average, etc.) are included in section 4, Table 3.

2. If there is no data to report on the DMR for a parameter, enter the applicable no data indicator (NODI) code in NetDMR.
3. Enter the applicable measurement units.
4. In the number of excursions column (“# of Ex.”), enter the total number of sample measurements during the monitoring period that exceed the maximum and/or average limit(s) or was below the minimum limit(s), as applicable, for all permit limits for each parameter; if none, enter “0.”
5. For “Frequency of Analysis,” enter the actual frequency of monitoring for the parameter (e.g., Cont,” for continuous monitoring, “1/7” for one per week, “1/30” for one per month, “2/30” for two per month, “1/90” for one per quarter, “1/180” for one per six months, “1/365” for one per year, etc.).
6. For “Sample Type,” indicate the sample type collected.

7.5 Compliance Schedule Reporting:

N/A

7.6 Other Reporting Requirements:

All reports shall be signed and certified in accordance with the Signatory Requirements (see section 9.7). Unless otherwise specified in the applicable section of the Permit, all paper reports shall be submitted to EPA Region 8, Enforcement and Compliance Assurance Division, Water Enforcement Branch and the Tribe at the addresses given below:

original to:

U.S. EPA, Region 8 (8ENF-W-NW)
Attention: NPDES and Wetlands Enforcement Section Supervisor
1595 Wynkoop Street
Denver, Colorado 80202-1129

copy to:

Acting Environmental Director
Alexander Swalley III
P.O. Box 658
Rosebud, SD 57570-0658

Prior to December 21, 2025, all other reports required herein (e.g., sections 7.10 and 7.11) as well as sewer overflow event reports, shall be signed and certified in accordance with the Signatory Requirements (see section 9.7), and submitted to EPA Region 8 and the 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). If the NeT tool is not available on December 21, 2025, the reports can continue to be submitted to the addresses above until the tool is available unless otherwise indicated in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR §122.22, and 40 CFR Part 127.

7.7 Additional Monitoring by the Permittee:

If the Permittee monitors any pollutant in accordance with section 7.1 more frequently than required by this Permit, using test procedures approved under 40 CFR Part 136, 40 CFR or another method as required under 40 CFR subchapters N or O, 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 or sludge reporting. Such increased frequency shall also be indicated on the DMR.

7.8 Monitoring Records Contents:

Records of monitoring information shall include:

- 7.8.1 The date, exact place, and time of sampling or measurements;
- 7.8.2 The name(s) of the individual(s) who performed the sampling or measurements;
- 7.8.3 The date(s) analyses were performed;
- 7.8.4 The time(s) analyses were initiated;
- 7.8.5 The name(s) of individual(s) who performed the analyses;
- 7.8.6 References to and, when available, written procedures for the analytical techniques or methods used; and,
- 7.8.7 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.

7.9 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 (e.g., strip charts, continuous electronic recording), 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. This period may be extended by request of EPA at any time. However, 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). 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.

7.10 Twenty-Four Hour Notice of Noncompliance Reporting:

- 7.10.1 The Permittee shall orally 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 a) EPA, Region 8, Superfund & Emergency Management Division at (303) 293-1788; b) Region 8's NPDES and Wetlands Enforcement Section at (800) 227-8917, and c) the Tribe at 605-747-2933.
- 7.10.2 The following occurrences of noncompliance and WET test failures shall be orally reported by telephone to EPA, Region 8's NPDES and Wetlands Enforcement Section at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time) and the Tribe at 605-747-2933 within 24 hours of the Permittee becoming aware of the circumstances:
 - 7.10.2.1 Any unanticipated bypass which exceeds any effluent limitation in the Permit (see section 8.6, Bypass of Treatment Facilities.);
 - 7.10.2.2 Any upset which exceeds any effluent limitation in the Permit (see section 8.7, Upset Conditions);
 - 7.10.2.3 Violation of a maximum daily discharge limitation for any of the pollutants listed in the Permit to be reported within 24 hours; and
 - 7.10.2.4 Sanitary sewer overflows.
- 7.10.3 For any noncompliance notification required under sections 7.10.1 or 7.10.2, a written report shall also be provided to the EPA, Office of Enforcement and Compliance Assurance Division, Water Enforcement Branch, and to the Tribe within five days of the time that the Permittee becomes aware of the circumstances. Reports shall be submitted to the addresses in section 7.6, Other Reporting Requirements.
- 7.10.4 The written report shall contain:
 - 7.10.4.1 A description of the noncompliance and its cause;
 - 7.10.4.2 The period of noncompliance, including exact dates and times;
 - 7.10.4.3 The estimated time noncompliance is expected to continue if it has not been corrected;
 - 7.10.4.4 Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and,
 - 7.10.4.5 The signed certification statement required by the Signatory Requirements (see section 9.7).

- 7.10.5 An EPA delegated representative may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under section 7.10.1 or 7.10.2 above, if the incident has been orally reported in accordance with the requirements of those sections.

7.11 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 7.4 are submitted. The reports shall contain the information listed in section 7.10.4, and, if applicable, when the Permittee failed to comply with any applicable long-term combined sewer overflow control plan or other permit requirements.

7.12 Inspection and Entry:

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

- 7.12.1 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;
- 7.12.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- 7.12.3 Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and,
- 7.12.4 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.

8 Compliance Responsibilities

8.1 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; termination, revocation and reissuance, modification; or denial of a permit renewal application.

8.2 Penalties for Violations of Permit Conditions:

The Clean Water Act provides for statutory maximum and minimum civil and criminal monetary penalties for violations of its provisions. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires EPA to make adjustments of statutory civil penalties on an annual basis according to a prescribed formula to reflect inflation,

beginning in 2016. EPA has adjusted its civil monetary penalties effective January 6, 2023 (88 Fed. Reg. 986-90). Please note that the civil penalties described below are reflective of the most recent Civil Monetary Penalty Inflation Rule the year this permit was issued and that civil penalties will have been adjusted annually thereafter. Civil penalties that EPA issues will therefore be reflective of the minimum amounts adjusted for inflation at the time of the violation. The civil and criminal penalties for violations of the Act are as follows:

- 8.2.1 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 \$64,618 per day for each violation.
- 8.2.2 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.
- 8.2.3 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.
- 8.2.4 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.

8.2.5 Any person may be assessed an administrative penalty by the EPA 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 \$25,847 per violation, with a maximum amount not to exceed \$64,618. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed \$25,847 per day for each day during which the violation continues, with the maximum amount not to exceed \$323,081.

8.3 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.

8.4 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.

8.5 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 [Criteria For Classification Of Solid Waste Disposal Facilities And Practices], 40 CFR Part 258 [Criteria For Municipal Solid Waste Landfills], 40 CFR Part 503 [Standards for the Use or Disposal of Sewage Sludge]). 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.

8.6 Bypass of Treatment Facilities:

8.6.1 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 sections 8.6.2 and 8.6.3.

8.6.2 Notice:

8.6.2.1 Anticipated bypass: If the Permittee knows in advance of the need for a bypass, it shall submit prior notice in accordance with section 7.6, 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 Tribe.

8.6.2.2 Unanticipated bypass: The Permittee shall submit notice of an unanticipated bypass as required under section 7.10, Twenty-four Hour Notice of Noncompliance Reporting, to the EPA Region 8, Enforcement and Compliance Assurance Division, Water Enforcement Branch, and the Tribe.

8.6.3 Prohibition of bypass

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

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

8.6.3.1.2 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,

8.6.3.1.3 The Permittee submitted notices as required under section 8.6.2.

8.6.3.2 The EPA may approve an anticipated bypass, after considering its adverse effects, if the EPA determines that it will meet the three conditions listed above in section 8.6.3.1.

8.7 Upset Conditions:

8.7.1 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 8.7.2 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 in an enforcement action brought for noncompliance with technology-based permit effluent limitations).

8.7.2 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:

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

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

8.7.2.3 The Permittee submitted notice of the upset as required under section 7.10, Twenty-four Hour Notice of Noncompliance Reporting; and,

8.7.2.4 The Permittee complied with any remedial measures required under section 8.4, Duty to Mitigate.

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

8.8 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.

9 General Requirements

9.1 Planned Changes:

The Permittee shall give written notice to the EPA as soon as possible of any planned physical alterations or additions to the permitted facility. The notice shall be signed and certified in accordance with the Signatory Requirements (see section 9.7) sent to the address below:

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

Notice is required only when:

9.1.1 The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to effluent limitations in the Permit;

9.1.2 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,

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

9.2 Anticipated Noncompliance:

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

9.3 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.

9.4 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 the EPA. EPA cannot grant permission for applications to be submitted later than the expiration date of the existing permit.

9.5 Duty to Provide Information:

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

9.6 Other Information:

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

9.7 Signatory Requirements:

All applications, reports or information submitted to the EPA shall be signed and certified in accordance with the provisions below.

- 9.7.1 For a corporation. By a responsible corporate officer. A responsible corporate officer means: (i) 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 (ii) 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.

- 9.7.2 For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or
- 9.7.3 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: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- 9.7.4 All reports required by the Permit and other information requested by the EPA shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- 9.7.4.1 The authorization is made in writing by a person described above and is submitted to the EPA; and,
- 9.7.4.2 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, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- 9.7.5 Changes to authorization: If an authorization under section 9.7.4 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 9.7.4 must be submitted to the EPA prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 9.7.6 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."

9.8 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.

9.9 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 § 122.7, permit applications, permits and effluent data shall not be considered confidential.

9.10 Property Rights:

The issuance of this Permit does not convey any property rights of any sort, or any exclusive privileges.

9.11 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.

9.12 Transfers:

This Permit is not transferable to any person except after notice and approval to the EPA, as described in the below provisions of this section. A permit may be automatically transferred to a new permittee if:

- 9.12.1 The current Permittee notifies the EPA at least 30 days in advance of the proposed transfer date at:

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

- 9.12.2 The notice includes a written agreement between the existing and new permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them;
- 9.12.3 The notice includes the signed certification statement required by the Signatory Requirements (see section 9.7); and,
- 9.12.4 The EPA does not notify the existing Permittee and the proposed new permittee of the 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 9.12.2.

9.13 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.

9.14 General Authorities for Permits in Indian Country:

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

9.15 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:

- 9.15.1 **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.
- 9.15.2 **Wasteload Allocation:** A wasteload allocation is developed and approved by the Tribe and/or the EPA for incorporation in this Permit.
- 9.15.3 **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.
- 9.15.4 **Toxic Effluent Standard:** If any applicable 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 and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the EPA shall institute to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.
- 9.15.5 **Toxicity Limitation:** This Permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity limitations if whole effluent toxicity is detected in the discharge.