UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, CA 94105

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

NPDES PERMIT NO. NN0028193

In compliance with the provisions of the Clean Water Act ("CWA") (Public Law 92-500, as amended, 33 U.S.C. §§ 1251 et seq.), the following permittee is authorized to discharge from the identified facility at the outfall location(s) specified below, in accordance with the effluent limits, monitoring requirements, and other conditions set forth in this permit. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.[1]

Permittee Name	Navajo Transitional Energy Company, LLC (NTEC)
Permittee Address	P.O. Box 3767 Farmington, New Mexico 87499
Facility Name	Navajo Coal Mine
Facility Location Address	300 Rd 4104 Fruitland, New Mexico 87416
Facility Rating	Minor

Outfall Number	General Type of Waste Discharged	Outfall Latitude	Outfall Longitude	Receiving Water
42 outfalls listed in Attachment C	Alkaline Mine Drainage, Coal Preparation Areas, Western Alkaline Coal Mining	42 outfalls listed in Attachment C	42 outfalls listed in Attachment C	Chaco River

This permit was issued on:	Date of signature below
This permit shall become effective on:	06/01/2025
Permit reapplication due no later than:	12/03/2029
This permit shall expire at midnight on:	05/31/2030

In accordance with 40 CFR § 122.21(d), the permittee shall submit a new application for a permit at least 180 days before the expiration date of this permit, unless permission for a date no later than the permit expiration date has been granted by the Director.

Signed for the Regional Administrator:

/ s / May 02, 2025

Tomás Torres, Director Date
Water Division

[1] Any discharges not expressly authorized in the Permit cannot become authorized or shielded from liability under CWA section 402(k) by disclosure to EPA, State, or local authorities after issuance of the Permit via any means, including during an inspection.

Any wastestream or pollutant loading greater than or different than what the Permittee has proposed to discharge is not authorized by this Permit. The Permittee's proposed discharge is based on the chemical-specific data and the facility's design flow as described in the permit application, as well as other information provided to EPA during the permitting process.

To obtain authorization for a new or changed discharge, the Permittee must first submit a request to EPA and EPA will analyze whether additional controls or limitations are necessary. Permit modification or reissuance may be required before the proposed discharge would be authorized.

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Part I. EFFLUENT LIMITS, OTHER LIMITATIONS, AND MONITORING REQUIREMENTS

A. Effluent Limits, Other Limitations, and Monitoring Requirements – All Outfalls

1. The permittee is authorized to discharge waste streams described below in compliance with the effluent limits and monitoring requirements specified in Table 1 – A-D. The permittee shall monitor the effluent to evaluate compliance.

2. The discharge of pollutants at any point other than the outfall numbers specifically authorized in this permit is prohibited.

3. All discharges to waters on Navajo Nation lands shall be free from:

a) visible solids, foam, scum, or any other debris that floats;

b) oil and/or grease that results in a film or iridescent appearance;

c) objectionable odor;

d) unnatural color.

B. Effluent Limits and Monitoring Requirements

1. Alkaline Mine Drainage Outfalls

During the period beginning on the effective date of this permit and lasting through the date of expiration, the permittee is authorized to discharge waste streams described in 40 CFR 434 Subpart D and defined in 40 CFR Section 434.11 from the outfall numbers listed in Attachment C – "Alkaline Mine Drainage" to the receiving waters listed in Attachment C – "Alkaline Mine Drainage." Such discharges shall be limited and monitored by the permittee as specified below. Samples shall be collected prior to mixing with other waste source stream and/or discharge to surface waters.

Table 1-A. Alkaline Mine Drainage Effluent Limitations and Monitoring Requirements

Effluent Parameter	Units	Monthly Average	Maximum for any 1 day	Monitoring Frequency (1)	Sampling Type
Flow	MGD	Monitor(3)	Monitor(3)	1/day(1)	Calculated(2)
Total Suspended Solids (TSS)	mg/L	35	70	1/day(1)	Grab
Iron, total (Original Outfalls)	mg/L	3.5	7.0	1/day(1)	Grab
Iron, total (NSPS Outfalls)	mg/L	3.0	6.0	1/day(1)	Grab
Manganese, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
pH	Std.units	between 6.0 to 9.0		1/day(1)	Grab
Arsenic, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Arsenic, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Boron, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Boron, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Cadmium, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Cadmium, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Lead, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Lead, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Mercury, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Mercury, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab

Selenium, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Selenium, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Sulfate	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Total Dissolved Solids (TDS)	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Phosphorous, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Nitrogen, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Hardness, total (as CaCO3)	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Composite
Priority Pollutants Scan(4)	Various	Monitor(3)	Monitor(3)	Annually	Grab

(1) Samples shall be taken once during each discharge occurrence or once every 24 hours if the duration of the discharge occurrence is greater than 24 hours.
(2) To determine total flow in gallons for each discharge and duration of discharge.
(3) No effluent limits are set at this time, but monitoring and reporting is required.
(4) See Attachment D for a list of priority pollutants. For most current listing of all priority toxic pollutants see 40 CFR § 423, Appendix A. Priority pollutant scan should be conducted concurrently with a Whole Effluent Toxicity test (see Part D, below).

2. Coal Preparation Plants, Storage Areas, and Ancillary Area Runoff Outfalls

During the period beginning on the effective date of this permit and lasting through the date of expiration, the permittee is authorized to discharge waste streams described in 40 CFR 434 Subpart B and defined in 40 CFR Section 434.11 from the outfall numbers listed in Attachment C – "Coal Preparation & Associated Areas" to the receiving waters listed in Attachment C – "Coal Preparation & Associated Areas." Such discharges shall be limited and monitored by the permittee as specified below. Samples shall be collected prior to mixing with other waste source stream and/or discharge to surface waters.

Table 1-B: Coal Preparation Areas Effluent Limitations and Monitoring Requirements

Effluent Parameter	Units	Monthly Average	Maximum for any 1 day	Monitoring Frequency (1)	Sampling Type
Flow	MGD	Monitor(3)	Monitor(3)	1/day(1)	Calculated(2)
Total Suspended Solids (TSS)	mg/L	35	70	1/day(1)	Grab
Iron, total (Original Outfalls)	mg/L	3.5	7.0	1/day(1)	Grab
Iron, total (NSPS Outfalls)	mg/L	3.0	6.0	1/day(1)	Grab
Manganese, total	mg/L	2.0	4.0	1/day(1)	Grab

pH	Std.units	between 6.0 to 9.0		1/day(1)	Grab
Arsenic, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Arsenic, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Boron, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Boron, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Cadmium, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Cadmium, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Lead, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Lead, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Mercury, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Mercury, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Selenium, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Selenium, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Sulfate	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Total Dissolved Solids (TDS)	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Phosphorous, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Nitrogen, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Hardness, total (as CaCO3)	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Composite
Priority Pollutants Scan(4)	Various	Monitor(3)	Monitor(3)	Annually	Grab

(1) Samples shall be taken once during each discharge occurrence or once every 24 hours if the duration of the occurrence is greater than 24 hours.
(2) To determine total flow in gallons for each discharge and duration of discharge.
(3) No effluent limits are set at this time, but monitoring and reporting is required.
(4) See Attachment D for a list of priority pollutants. For most current listing of all priority toxic pollutants see 40 CFR § 423, Appendix A. Priority pollutant scan should be conducted concurrently with a Whole Effluent Toxicity test (see Part D, below).

3. Western Alkaline Coal Mining Outfalls.

During the period beginning on the effective date of this permit and lasting through the date of expiration, the permittee is authorized to discharge waste streams described in 40 CFR 434 Subpart H and defined in 40 CFR Section 434.11 from the outfall numbers listed in Attachment C – "Western Alkaline Coal Mining" to the receiving waters listed in Attachment C – "Western Alkaline Coal Mining." Such discharges shall be limited and monitored by the permittee as specified below. The permittee must:

a) Design, implement, and maintain the BMPs in the manner specified in the Approved 2023 Sediment Control Plan throughout the term of this permit.

b) Revise the Sediment Control Plan to incorporate new areas as needed. As existing outfalls defined in this permit as "alkaline mine drainage" are reclaimed, the Approved 2023 Sediment Control Plan shall be updated to incorporate the newly reclaimed outfalls into this subpart. A revised Sediment Control Plan and revised watershed model must be submitted to EPA and approved by EPA before it becomes effective. Revisions to the Sediment Control Plan must meet all requirements contained at 40 CFR Part 434.82, and 100% of the drainage area to an outfall that has been disturbed by mining must meet the definition of "western alkaline reclamation, brushing and grubbing, topsoil stockpiling, and regraded areas" (as defined at 40 CFR 434.80) to be considered for coverage. EPA's approval of an updated Sediment Control Plan and reclassification of an existing outfall from "alkaline mine drainage" to a reclaimed area will be considered a minor modification to the permit as described in Section C of this permit.

4. Discharges Resulting from Precipitation Events

The alternate limitations specified in this section apply with respect to:

a) All discharges of Alkaline Mine Drainage except discharges from underground workings of underground mines that are not commingled with other discharges eligible for these alternate limitations and
b) Discharges from Coal Preparation Plants and Preparation Plant Associated Areas (excluding acid or ferruginous mine drainage from coal refuse disposal piles).

A 10-year, 24-hour precipitation event has been determined by EPA to be 1.56 inches within a 24-hour period, which is comparable to the National Oceanic and Atmospheric Agency's (NOAA) frequency estimates at the Fruitland 3E station for a 10-year, 24-hour storm event and used in the design of ponds and spillways at Navajo Mine and Pinabete Mine areas.

Precipitation Events less than or equal to the 10-year, 24-hour precipitation event

During the period beginning on the effective date of this permit and lasting through the date of expiration, the permittee is authorized to discharge waste streams described in 40 CFR 434 Subpart F and defined in 40 CFR Section 434.11 from outfall numbers listed in Attachment C – "Alkaline Mine Drainage" and Attachment C – "Coal Preparation & Associated Areas" resulting from precipitation events less than or equal to a 10-year, 24-hour precipitation event (1.56 inches within a 24 hour period). Any discharge or increase in the volume of a discharge caused by

precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations and monitoring requirements instead of the otherwise applicable limitations. Samples shall be collected prior to mixing with other waste source stream and/or discharge to surface waters.

Table 1-C: Discharges from precipitation events less than or equal to a 10-year, 24-hour event.

Effluent Parameter	Units	Monthly Average	Maximum for any 1 day	Monitoring Frequency (1)	Sampling Type
Flow	MGD	Monitor(3)	Monitor(3)	1/day(1)	Calculated(2)
Settleable Solids	mL/L	--	0.5	1/day(1)	Grab
Iron, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Manganese, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
pH	Std.units	between 6.0 to 9.0		1/day(1)	Grab
Arsenic, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Arsenic, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Boron, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Boron, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Cadmium, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Cadmium, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Lead, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Lead, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Mercury, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Mercury, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Selenium, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Selenium, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab

Sulfate	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Total Dissolved Solids (TDS)	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Phosphorous, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Nitrogen, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Hardness, total (as CaCO3)	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Composite
Priority Pollutants Scan(4)	Various	Monitor(3)	Monitor(3)	Annually	Grab

(1) Samples shall be taken once during each discharge occurrence or once every 24 hours if the duration of the occurrence is greater than 24 hours.
(2) To determine total flow in gallons for each discharge and duration of discharge.
(3) No effluent limits are set at this time, but monitoring and reporting is required.
(4) See Attachment D for a list of priority pollutants. For most current listing of all priority toxic pollutants see 40 CFR § 423, Appendix A. Priority pollutant scan should be conducted concurrently with a Whole Effluent Toxicity test (see Part D, below).

Precipitation Events greater than a 10-year, 24-hour precipitation event

During the period beginning on the effective date of this permit and lasting through the date of expiration, the permittee is authorized to discharge waste streams described in 40 CFR 434 Subpart F and defined in 40 CFR Section 434.11 from outfall numbers listed in Attachment C – "Alkaline Mine Drainage" and Attachment C – "Coal Preparation & Associated Areas" resulting from precipitation events greater than a 10-year, 24-hour precipitation event (1.56 inches within a 24-hour period). Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than a 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations and monitoring requirements instead of the otherwise applicable limitations. Samples shall be collected prior to mixing with other waste source stream and/or discharge to surface waters.

Table 1-D: Discharges from precipitation events greater than a 10-year, 24-hour event.

Effluent Parameter	Units	Monthly Average	Maximum for any 1 day	Monitoring Frequency (1)	Sampling Type
Flow	MGD	Monitor(3)	Monitor(3)	1/day(1)	Calculated(2)
Iron, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Manganese, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
pH	Std.units	between 6.0 to 9.0		1/day(1)	Grab
Arsenic, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab

Arsenic, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Boron, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Boron, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Cadmium, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Cadmium, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Lead, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Lead, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Mercury, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Mercury, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Selenium, total	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Selenium, dissolved	ug/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Sulfate	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Total Dissolved Solids (TDS)	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Phosphorous, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Nitrogen, total	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Grab
Hardness, total (as CaCO3)	mg/L	Monitor(3)	Monitor(3)	1/day(1)	Composite
Priority Pollutants Scan(4)	Various	Monitor(3)	Monitor(3)	Annually	Grab

(1) Samples shall be taken once during each discharge occurrence or once every 24 hours if the duration of the occurrence is greater than 24 hours.
(2) To determine total flow in gallons for each discharge and duration of discharge.
(3) No effluent limits are set at this time, but monitoring and reporting is required.
(4) See Attachment D for a list of priority pollutants. For most current listing of all priority toxic pollutants see 40 CFR § 423, Appendix A. Priority pollutant scan should be conducted concurrently with a Whole Effluent Toxicity test (see Part D, below).

C. Implementation of Best Management Practices (BMPs) – Outfalls for Alkaline Mine Drainage and Coal Preparation and Associated Areas

The permittee shall develop and implement best management practices (BMPs) to control pollutants (such as metals) in discharges from two outfall categories – Alkaline Mine Drainage

and Coal Preparation Plants and Associated Areas. The permittee shall comply with the requirements outlined in Part III, below, regarding BMPs.

D. Chronic Toxicity Effluent Limits and Monitoring Requirements – All Outfalls

Table 2. Effluent Limits and Monitoring Requirements for Chronic Toxicity

Parameter	Maximum Allowable Discharge Limits			Monitoring Requirements	
	Concentration				
	Median Monthly	Maximum Daily	Units	Minimum Frequency	Sample Type
Chronic Toxicity *Ceriodaphnia dubia* reproduction, Method 1002.0 WC13B	Report (2,3)	Report (2,4)	Pass (0) or Fail (1), PE, in % effluent	Annual	24-hour composite (5)
Chronic Toxicity *Pimphales promelas* growth, Method 1000.0 WCP6C	Report (2,3)	Report (2,4)	Pass (0) or Fail (1), PE, in % effluent	Annual	24-hour composite (5)
Chronic Toxicity *Selenastrum capricornutum* (*Raphidocelis subcapitata*) growth, Method 1003.0 WGR1E	Report (2,3)	Report (2,4)	Pass (0) or Fail (1), PE, in % effluent	Annual	24-hour composite (5)

(1) Species sensitivity screening is required with the three parameters listed in Table 2 above. After the most sensitive species is identified, chronic toxicity tests are required with only the most sensitive species. See Part II.C.3.

(2) "Report" means there is no effluent limit for the coded parameter, chronic toxicity, but monitoring and DMR reporting is required. See Endnotes 3 and 4.

(3) Median Monthly Effluent result: **No more than three** chronic toxicity tests may be initiated during the calendar month. Pass–Fail results are coded as **Pass (0)** (TST null hypothesis is rejected and the IWC is declared not toxic) and **Fail (1)** (TST null hypothesis is not rejected and the IWC is declared toxic). For this discharge, the TST null hypothesis (Ho) at the required discharge-specific IWC is: **IWC mean response (100% effluent) ≤ 0.75 × Control mean response**. Rejection of the TST null hypothesis is determined by following the step-by-step instructions in *National Pollutant Discharge Elimination System Test of Significant Toxicity Technical Document*, Appendix B (EPA 833-R-10-004, 2010; TST Technical Document).

(4) Maximum Daily Effluent result: This is evaluated for each individual toxicity test, including every test conducted for determining the median monthly effluent result. PE (also called "Percent (%) Effect" or "% Effect") is calculated as: **PE in % effluent = [(Control mean response − IWC mean response) ÷ Control mean response] × 100**. If more than one toxicity test during the calendar month is coded as **Fail (1)** and the observed (estimated) **PE ≥ 50**, the toxicity test with a **Fail (1)** and the highest **PE** shall be reported on the DMR form. The results of all toxicity tests initiated during the calendar month shall be attached to the DMR form.

(5) Composites shall be taken over the course of 24 hours. If the discharge is less than 24 hours, composite samples shall be taken at regular intervals for the duration of the discharge.

E. Sampling

1. Samples shall be representative of the volume and quality of effluent discharged over the sampling and reporting period. All samples are to be taken during normal operating hours. The Permittee shall identify the effluent sampling location used for each discharge.

2. Effluent samples shall be taken after the last treatment process and prior to mixing with the receiving water, where representative samples can be obtained.

3. For intermittent discharges, the permittee shall monitor on the first day of discharge. The permittee is not required to monitor in excess of the minimum frequency required in Tables 1- A-D. If there is no discharge, the permittee is not required to monitor either influent or effluent.

F. General Monitoring and Reporting

1. All monitoring shall be conducted in accordance with 40 CFR § 136 test methods, unless otherwise specified in this permit. For influent and effluent analyses required in this permit, the permittee shall utilize sufficiently sensitive 40 CFR § 136 test methods with MDLs and MLs that are lower than the effluent limits in this permit. For parameters without an effluent limit, the permittee must use an analytical method at or below the level of the applicable water quality criterion for the measured pollutant. If all MDLs or MLs are higher than these effluent limits or criteria concentrations, then the permittee shall utilize the test method with the lowest MDL or ML. In this context, the permittee shall ensure that the laboratory utilizes a standard calibration where the lowest standard point is equal to or less than the ML. Influent and effluent analyses for metals shall measure "total recoverable metal," except as provided under 40 CFR § 122.45(c).

2. As an attachment to the first DMR, the permittee shall submit, for all parameters with monitoring requirements specified in this permit:

   a. The test method number or title and published MDL or ML,

   b. The preparation procedure used by the laboratory,

   c. The laboratory's MDL for the test method computed in accordance with Appendix B of 40 CFR § 136,

   d. The standard deviation (S) from the laboratory's MDL study,

   e. The number of replicate analyses (n) used to compute the laboratory's MDL, and

   f. The laboratory's lowest calibration standard.

   As part of each DMR submittal, the permittee shall notify EPA of any changes to the laboratory's test methods, MDLs, MLs, or calibration standards. If there are any changes to the laboratory's test methods, MDLs, MLs, or calibration standards, these changes shall be summarized in an attachment to the subsequent DMR submittal.

3. The permittee shall develop a Quality Assurance ("QA") Manual for the field collection and laboratory analysis of samples. The purpose of the QA Manual is to assist in planning for the collection and analysis of samples and explaining data anomalies if they occur. The QA Manual shall be developed (or updated) within 90 days of the permit effective date. At a minimum, the QA Manual shall include the following:

    a. Identification of project management and a description of the roles and responsibilities of the participants; purpose of sample collection; matrix to be sampled; the analytes or compounds being measured; applicable technical, regulatory, or program-specific action criteria; personnel qualification requirements for collecting samples;

    b. Description of sample collection procedures; equipment used; the type and number of samples to be collected including QA/Quality Control ("QC") samples; preservatives and holding times for the samples (see 40 CFR § 136.3); and chain of custody procedures;

    c. Identification of the laboratory used to analyze the samples; provisions for any proficiency demonstration that will be required by the laboratory before or after contract award such as passing a performance evaluation sample; analytical method to be used; MDL and ML to be reported; required QC results to be reported (e.g., matrix spike recoveries, duplicate relative percent differences, blank contamination, laboratory control sample recoveries, surrogate spike recoveries, etc.) and acceptance criteria; and corrective actions to be taken in response to problems identified during QC checks; and

    d. Discussion of how the permittee will perform data review, report results, and resolve data quality issues and identify limits on the use of data.

4. Throughout all field collection and laboratory analyses of samples, the permittee shall use the QA/QC procedures documented in their QA Manual. If samples are tested by a contract laboratory, the permittee shall ensure that the laboratory has a QA Manual on file. A copy of the permittee's QA Manual shall be retained on the permittee's premises and available for review by regulatory authorities upon request. The permittee shall review its QA Manual annually and revise it, as appropriate.

5. Samples collected during each month of the reporting period must be reported on Discharge Monitoring Report forms, as follows:

    a. For a *maximum daily* permit limit or monitoring requirement when one or more samples are collected during the month, report either:

    The *maximum value*, if the maximum value of all analytical results is greater than or equal to the ML; or
    NODI (Q), if the maximum value of all analytical results is greater than or equal to the laboratory's MDL, but less than the ML; or

NODI (B), if the maximum value of all analytical results is less than the laboratory's MDL.

b. For an *average weekly* or *average monthly* permit limit or monitoring requirement when only one sample is collected during the week or month, report either:

The *maximum value*, if the maximum value of all analytical results is greater than or equal to the ML; or
NODI (Q), if the maximum value of all analytical results is greater than or equal to the laboratory's MDL, but less than the ML; or
NODI (B), if the maximum value of all analytical results is less than the laboratory's MDL.

c. For an *average weekly* or *average monthly* permit limit or monitoring requirement when more than one sample is collected during the week or month, report:

The *average value* of all analytical results where 0 (zero) is substituted for *NODI (B)* and the laboratory's MDL is substituted for *NODI (Q)*.

6. In addition to information requirements specified under 40 CFR § 122.41(j)(3), records of monitoring information shall include: the laboratory which performed the analyses and any comment, case narrative, or summary of results produced by the laboratory. The records should identify and discuss QA/QC analyses performed concurrently during sample analyses and whether project and 40 CFR § 136 requirements were met. The summary of results must include information on initial and continuing calibration, surrogate analyses, blanks, duplicates, laboratory control samples, matrix spike and matrix spike duplicate results, and sample condition upon receipt, holding time, and preservation.

7. The permittee shall use CDX (https://cdx.epa.gov/) to access the appropriate NPDES Electronic Tool and electronically submit the following program reports:

   a. NetDMR/Discharge Monitoring Report
   b. NeT Multi Sector General Permit

   If NeT reporting through CDX is not yet available for a particular program report, the permittee shall report in NeT as soon as reporting for that program is available in NeT and no later than December 21, 2025.

   In accordance with the NPDES Electronic Reporting Rule, these program reports must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR § 127.2(b), in compliance with this section and 40 CFR § 3 (including, in all cases, subpart D to part 3), 40 CFR § 122.22, and 40 CFR § 127.

8. Monitoring and reporting shall be completed according to the schedule in Table 1, A - D. A DMR must be submitted for the reporting period even if there was not any

discharge. If there is no discharge from the facility during the reporting period or no numerical values to report for a parameter, the permittee shall submit the appropriate no data indicator (NODI) code in their DMR. For intermittent discharges, the permittee shall monitor required parameters on the first day of discharge. Monitoring for parameters required once per permit term shall occur during discharge unless there is no discharge throughout the permit term. Entering a DMR comment is recommended if submitting no data indicator code (NODI) other than "C" for no discharge.

Table 3. Monitoring and Reporting Schedule

Sampling Frequency	Monitoring Period Start Date	Monitoring Period	DMR Due Date
Continuous	Permit effective date	All	Quarterly on the 28th day of first calendar month following the previous calendar quarter (January 28th, April 28th, July 28th, October 28th)
Daily	Permit effective date	(Midnight through 11:59 PM) or any 24-hour period that reasonably represents a calendar day for purposes of sampling	Quarterly on the 28th day of first calendar month following the previous calendar quarter (January 28th, April 28th, July 28th, October 28th)
Weekly	Sunday following permit effective date or on permit effective date if on a Sunday	Sunday through Saturday	Quarterly on the 28th day of first calendar month following the previous calendar quarter (January 28th, April 28th, July 28th, October 28th)
Monthly	First day of calendar month following permit effective date or on permit effective date if that date is first day of the month	1st day of calendar month through last day of calendar month	Quarterly on the 28th day of first calendar month following the previous calendar quarter (January 28th, April 28th, July 28th, October 28th)
Quarterly	Closest of January 1, April 1, July 1, or October 1 following (or on) permit effective date	January 1 through March 31 April 1 through June 30 July 1 through September 30 October 1 through December 31	Quarterly on the 28th day of first calendar month following the previous calendar quarter (January 28th, April 28th, July 28th, October 28th)
Semiannually	Closest of January 1, April 1, July 1, or October 1 following (or on) permit effective date	January 1 through June 30 April 1 through September 30 July 1 through December 31 October 1 through March 31	July 28th, each year January 28th, each year

Sampling Frequency	Monitoring Period Start Date	Monitoring Period	DMR Due Date
Annually	Closest of January 1, April 1, July 1, or October 1 following (or on) permit effective date	January 1 through December 31 April 1 through March 31 July 1 through June 30 October 1 through September 30	January 28th of the following year
Once per permit term	Permit effective date	All	Last quarterly report before permit reapplication due date (January 28th, April 28th, July 28th, or October 28th)

9. The permittee shall submit an electronic or paper Discharge Monitoring Report to Navajo Nation. Paper DMR forms shall be mailed to:

   Water Quality/NPDES Program
   P.O. Box 339
   Window Rock, AZ 86515
   Email: patrickantonio@navajo-nsn.gov

Part II. SPECIAL CONDITIONS

A. Permit Reopener(s)

1. In accordance with 40 CFR §§ 122 and 124, this permit may be modified by EPA to include effluent limits, monitoring, or other conditions to implement new regulations, including EPA-approved water quality standards; to address toxicity (acute and/or chronic) in the effluent or receiving waterbody, as a result of the discharge; or to address new information indicating the presence of effluent toxicity or the reasonable potential for the discharge to cause or contribute to exceedances of water quality standards.

2. This permit may be modified, or revoked and reissued, based on the results of Magnuson-Stevens Fishery Conservation and Management Act and/or Endangered Species Act Section 7 consultation(s) with the National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.

B. Twenty-four Hour Reporting of Noncompliance

The permittee shall report any noncompliance which may endanger human health or the environment. The permittee is required to provide an oral report by directly speaking with an EPA and Navajo Nation enforcement staff person within 24 hours from the time the permittee becomes aware of the noncompliance. If the permittee is unsuccessful in reaching a staff person, the permittee shall provide notification by 9 a.m. on the first business day following the noncompliance to the attention of EPA Region 9 Enforcement and Compliance Assurance Division at (415) 947-4222 and to Navajo Nation Water Quality/NPDES Program at (928) 871-7185.

The permittee shall follow up with a written submission within five days of the time the permittee becomes aware of the noncompliance. Sanitary sewer overflow and bypass reports shall be submitted electronically to EPA using NeT-Sewer Overflow. See NeT-Sewer Overflow User's Guide for more details. All other reports shall be emailed to R9NPDES@epa.gov and the EPA staff person initially notified. The submission shall contain a description of the noncompliance and its cause; 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 steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

1. The following shall be included as information which must be reported within 24 hours under this paragraph.

   a. Any overflow, anticipated bypass, and/or unanticipated bypass which exceeds any effluent limit in the permit (see Table 1. Effluent Limits and Monitoring Requirements).

   b. Any upset which exceeds any effluent limit in the permit.

c. Violation of a maximum daily discharge limit for any of the pollutants listed by the director in the permit to be reported within 24 hours (see Table 1. Effluent Limits and Monitoring Requirements).

2. EPA may waive the written report on a case-by-case basis for reports required under paragraph B.2, if the oral report has been received within 24 hours.

C. Whole Effluent Toxicity Requirements

1. 1. Instream Waste Concentration (IWC) for Chronic Toxicity

The chronic toxicity IWC required for the authorized discharge point is expressed as **100 percent (%) effluent** (i.e., 1/S × 100, also 1 part effluent to S−1 parts dilutant). The toxicity laboratory making the IWC for chronic toxicity testing shall use 1 part effluent to S−1 parts dilutant for a total of S parts.

Table 4. Facility-specific Chronic Toxicity IWC.

Authorized discharge outfall number	Required chronic toxicity instream waste concentration (IWC) in % effluent	S	1 part effluent to S−1 parts dilutant
All Outfalls	100%	1	1 to 0

2. Sampling and Monitoring Frequency

Toxicity test samples shall be collected for the authorized discharge point in accordance with Section I.E.2 of this Permit. The total sample volume shall be determined both by the WET method used (including, for non-continuous discharges, the additional sample volume necessary to complete the toxicity test) and the additional sample volume necessary for Toxicity Identification Evaluation (TIE) studies.

The permittee shall use the test species, WET method, monitoring frequency, and sample type specified in Part I, Table 2. A split of each effluent sample for toxicity testing shall be analyzed for all other monitored parameters (conventional, non-conventional, and priority toxic pollutants), at the minimum frequency of analysis specified during the reporting period for the month by the effluent monitoring program. All toxicity tests for the month shall be initiated during that calendar month.

3. Chronic Test Species and WET Methods

Conditional Species Sensitivity Screening Report. The permitting authority may require by letter—signed by the NPDES Permits Section Manager—the permittee to conduct and submit the results of species sensitivity screening for the discharge at the chronic toxicity IWC. Screening is defined as one round of concurrent chronic toxicity tests conducted each month, repeated over no more than three consecutive

months. The total number of monthly rounds is specified by the permitting authority (i.e., 1 to 3). A round shall consist of one test using a fish, one test using an invertebrate, and one test using an alga and the applicable WET methods listed under this condition. The permittee shall conduct the screening and a final report is due to EPA no more than 12 months after the permittee is notified by letter of the requirement to conduct species sensitivity screening (e.g., if letter date is during January 2020, then the final report is due January 31, 2021). The permittee shall report **Pass (0)** or **Fail (1)** and the associated value for **PE** for each chronic toxicity test conducted for species sensitivity screening. For the TST statistical approach used by this permit, the most sensitive test species is the species which demonstrates the most number of Fail (1) results for routine monitoring tests and species sensitivity screening tests. If no test results are Fail (1), then the most sensitive test species is the species which demonstrates the highest PE ≥ 10 at the IWC for routine monitoring tests and species sensitivity screening tests.

The permittee shall **conduct routine toxicity tests with the most sensitive parameter for chronic toxicity required in Part I, Table 2**: static renewal test with fathead minnow, Pimephales promelas (Larval Survival and Growth Test Method 1000.0), static renewal test with daphnid, Ceriodaphnia dubia (Survival and Reproduction Test Method 1002.0), or static non-renewal test with green alga, Selenastrum capricornutum (also named Raphidocelis subcapitata) (Growth Test Method 1003.0)). The permittee shall follow this short-term WET method for this test species for estimating the chronic toxicity of NPDES effluents found in the fourth edition of Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms (EPA/821/R-02/013, 2002; Table IA, 40 CFR 136).

2. Quality Assurance

a. The permittee shall follow all Quality Assurance specifications listed in each paragraph below in this Section.

b. Quality assurance measures, instructions, and other recommendations and requirements are found in the WET methods manual(s) specified in II.C.3., above. Additional requirements are specified below.

c. The discharge is subject to a determination of rejection or non-rejection of the TST null hypothesis (H_o) from a chronic toxicity test at the required IWC. For statistical flowchart and procedures using the TST statistical approach see Appendix B of *National Pollutant Discharge Elimination System Test of Significant Toxicity Technical Document* (EPA 833-R-10-004, 2010; TST Technical Document). For the TST statistical approach, the associated value for "Percent (%) Effect" (also called "% Effect" or "PE") at the required IWC is calculated as: % Effect = [(Control mean response − IWC mean response) ÷ Control mean response] × 100.

d. **Controls.** Effluent dilution water and control water shall be prepared and used as specified in the applicable WET methods manual in II.C.3., above. If the dilution water is different from test organism culture water, then a second control using culture water shall also be used. If the effluent sample at the IWC is adjusted using artificial sea salts or a saltwater brine, a "salting up/brine" control shall be prepared and used as specified in the applicable WET methods manual in II.C.3., above.

e. If organisms are not cultured in-house in the testing laboratory, then concurrent testing with a reference toxicant shall be conducted. If organisms are cultured in-house in the testing laboratory, then monthly reference toxicant testing is sufficient. Reference toxicant tests and effluent toxicity tests shall be conducted using the same test conditions (e.g., same test duration, etc.).

f. If the effluent toxicity test during the reporting period for the month does not meet the Test Acceptability Criteria (TAC) described in the WET method specified in II.C.3., above, then the permittee shall resample and retest within 14 days. TAC for each method can be found at https://www.epa.gov/cwa-methods/chronic-toxicity-freshwater-wet-methods. The results of this retest shall only replace that effluent toxicity test that did not meet TAC during the reporting period for the month.

g. In addition to Total Alkalinity, Conductivity, and Total Hardness, when preparing effluent samples for toxicity testing using *Ceriodaphnia dubia* reproduction Method 1002.0, the Major Ions (Na^+, K^+, Ca^{2+}, Mg^{2+}, Cl^-, SO_4^{2-}, and HCO^{3-}/CO_3^{2-}) shall be well characterized (and available for DMR reporting when requested by the permitting authority) for the effluent IWC, dilution water, and culture water used for toxicity testing. See Mount DR, Erickson RJ, Forsman BB, and Norberg-King TJ. 2019. Chronic toxicity of major ion salts and their mixtures to *Ceriodaphnia dubia*. *Environ Toxicol Chem* 38:769-783.

h. **Removed Toxicants (chlorine, ammonia).** If the discharged effluent is chlorinated, then chlorine shall not be removed from the effluent sample prior to toxicity testing without written approval by the permitting authority. Ammonia shall not be removed from the effluent sample prior to toxicity testing without written approval by the permitting authority.

3. Initial Investigation Toxicity Reduction Evaluation (TRE) Work Plan

Within 90 days of the permit effective date, the permittee shall prepare its Initial Investigation TRE Work Plan (1-2 pages). A copy of the permittee's Initial Investigation TRE Work Plan shall be retained on the permittee's premises and available for review by regulatory authorities upon request. This plan shall include steps the permittee intends to follow if a Median Monthly Effluent result for chronic toxicity is reported as Fail (1) for the reporting month (see Part I, Table 2, Endnote 3), and should include the following, at minimum:

a. A description of the investigation and evaluation techniques that would be used to identify potential causes and sources of toxicity, effluent variability, and treatment system efficiency.

b. A description of methods for maximizing in-house treatment system efficiency, good housekeeping practices, and a list of all chemicals used in operations at the facility.

c. If a TRE and Toxicity Identification Evaluation (TIE) are conducted, an indication of who would conduct these studies (i.e., an in-house expert or outside contractor).

4. Chronic Toxicity Median Monthly Effluent Result of **Fail (1)** Proceeding to TRE

a. If the chronic toxicity Median Monthly Effluent result is reported as **Fail (1)** for the calendar month (see Part I, Table 2, Endnote 3), then—regardless of the minimum monitoring frequency in Part I, Table 2—the permittee shall conduct effluent monitoring using no more than three chronic toxicity tests **during the next consecutive calendar month** and implement its Initial Investigation TRE Work Plan.

b. If the chronic toxicity Median Monthly Effluent result **during this next consecutive calendar month** is **Pass (0)**, then the permittee shall return to the minimum monitoring frequency in Part I, Table 2. However, if this result is **Fail (1)**, then the permittee shall immediately initiate a TRE using—according to the type of treatment facility—EPA manual *Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants* (EPA/833/B-99/002, 1999), or EPA manual *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations* (EPA/600/2-88/070, 1989)—and return to the monitoring frequency in Part I, Table 2.

c. In conjunction with TRE initiation, the permittee shall immediately develop and implement a Detailed TRE Work Plan which shall include the following: further actions undertaken by the permittee to investigate, identify, and correct the causes of toxicity; actions the permittee will take to mitigate the effects of the discharge and prevent the recurrence of toxicity; and a schedule for these actions. This detailed work plan shall be submitted to the permitting authority as an attachment to the permittee's next toxicity DMR submittal.

d. The permittee may initiate a TIE as part of a TRE to identify the causes of toxicity using, as guidance, EPA manuals: *Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures* (EPA/600/6-91/003, 1991); *Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/080, 1993); *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/081, 1993); and *Marine Toxicity*

Identification Evaluation (TIE): Phase I Guidance Document (EPA/600/R-96-054, 1996).

e. During a TRE, the chronic toxicity effluent monitoring results conducted for the TRE/TIE that meet the WET method's Test Acceptability Criteria at the IWC shall be reported on the DMR following the Endnotes in Part I, Table 2.

5. Reporting of Toxicity Monitoring Results on DMR

a. **Report no effluent monitoring result for Chronic Toxicity.** If no toxicity test monitoring for the calendar month is required and toxicity monitoring is not conducted, then the permittee shall report "NODI(9)" (i.e., Conditional Monitoring – Not Required for This Period) on the DMR form.

Report Median Monthly Effluent result for Chronic Toxicity. See Part I, Table 2, Endnote 3.

Report Maximum Daily Effluent result(s) for Chronic Toxicity. See Part I, Table 2, Endnote 4.

b. The permittee shall email to R9NPDES@epa.gov each full toxicity laboratory report for all toxicity testing by the due date for the corresponding toxicity test results on DMRs. The email subject shall include the permit number NN0028193. The laboratory report shall contain: all toxicity test results (raw data and statistical analyses) for each effluent and related reference toxicant tested; chain-of custody; the dates of sample collection and initiation of each toxicity test; control performance; all results for other effluent parameters monitored concurrently with the effluent toxicity tests; and schedule and progress reports on TRE/TIE studies.

Quality-control reporting for toxicity laboratory control group. To assist in reviewing within-test variability, the toxicity laboratory report must include, for each test species/WET method: quality-control charts for the mean, standard deviation and coefficient of variation of the control group. Each toxicity laboratory report attached to the DMR shall include both a graphical control chart (with a long-term average printed below the chart) and a table of control-group data for the WET method/test species. These data shall be listed in the table: sample date, type of dilution water, number of replicates (n), control mean (cM), control standard deviation (cS), and control coefficient of variation (cK). The quality-control chart and the table shall report data for the last 50 toxicity tests conducted by the laboratory. If there are more than 30 tests with a different number of replicates (e.g., 20 tests of n=10 and 30 tests of n=20), then use separate control charts and tables. The table shall also report the following summary statistics separately for cM, cS, and cK: number of observations, average, standard deviation, and percentiles (minimum, 10^{th}, 25^{th}, 50^{th}, 60^{th}, 65^{th}, 70^{th}, 75^{th}, 80^{th}, 90^{th}, and maximum). This information is required for review of toxicity test results and the toxicity laboratory's performance of the test species/WET method by the permittee and permitting authority. Also, see test

species/WET method-specific percentiles for the mean, coefficient of variation, and standard deviation of control-group data in section 3 tables of the TST Technical Document.

c. **Notification reporting.** The permittee shall submit an electronic report to R9NPDES@epa.gov within 14 days of each of the following occurrences: a **Median Monthly Effluent result of Fail (1)** for chronic toxicity, or a **Maximum Daily Effluent result of Fail (1)** combined with PE ≥ 50. If the permittee is reporting a Median Monthly Effluent result of Fail (1), the permittee shall follow required steps listed in Part II.C.6 of this permit.

D. Mercury and Selenium Monitoring Study and Summary Report

Within 180 days after the permit effective date, the permittee shall develop and submit a monitoring study of mercury and selenium concentrations in discharge waters and upstream and downstream waterbodies. The proposed study shall include measuring and reporting the frequency, magnitude (volume) and duration of the discharges. To extent feasible, sampling shall also include fish tissue and/or fish eggs/ovaries in upstream and downstream waters. The permittee may also include sampling for mercury and selenium at reference stations to assess the pollutant levels at background locations. The permittee shall conduct this study over the first three years of permit term. Within the fourth year of permit term, the permittee shall submit a summary report of the monitoring results. See factsheet section IX. B. for additional information.

E. Summary of Special Reports

The permittee is required to submit special reports in this permit by the dates listed below in Table 5. For reports that are required to be submitted to R9NPDES@epa.gov, the permittee shall include the following information in the subject line:

1. The permit number (NN0028193)
2. The name of the report as written in the table below.
3. The word "submittal"

Table 5. Special Reports to Submit to EPA.

Special Report Name	Due Date	Section of Permit	Submit Report to:
Mercury and Selenium Monitoring Study	180 days after effective date of permit	Section II.D.	R9NPDES@epa.gov
Mercury and Selenium Summary Report	Fourth year of permit term	Section II.D.	R9NPDES@epa.gov

F. 401 Water Quality Certification

The permittee shall comply with all requirements set forth in Navajo Nation's 401 Water Quality Certification issued on March 14, 2025. See Attachment E.

Part III. BEST MANAGEMENT PRACTICES AND POLLUTION PREVENTION PLAN REQUIREMENTS

A. Best Management Practices

1. In accordance with section 304(e) of the CWA and 40 CFR § 122.44(k), prior to any discharge, the permittee shall develop and implement appropriate pollution prevention measures or Best Management Practices ("BMPs"). BMPs shall be designed, installed and operated to reduce discharge volume and associated pollutant loads and to minimize potential excursions of applicable water quality standards. The BMPs shall include measures necessary to control site runoff, spillage and leaks, sludge and waste disposal, and drainage from raw material storage which are associated with or ancillary to the maintenance, transportation, and storage of petroleum products or other potential pollutants at the facility that may contribute measurable or observable amounts of such pollutants to surface waters.

2. The permittee shall develop and implement the following BMPs for all categories of outfalls:
   a) good housekeeping: the permittee shall keep all exposed areas of the facility in a clean, orderly manner where such exposed areas could contribute pollutants to discharges;

      i) vehicle and equipment storage areas must be regularly inspected and cleaned for spills and leaks (including storm inlets); and have spill response equipment (e.g., drip pans, sorbent pads) to respond immediately to spills or leaks;
      ii) vehicle and equipment fueling areas must have measures that prevent or minimize contamination of discharges from these areas such as covering the fueling area, using spill/overflow protection and cleanup equipment, using proper cleaning methods instead of hosing down area, minimizing run-on/runoff to fueling areas, and treating and/or recycling collected effluent;
      iii) materials (e.g., greases, used oil/oil filters, cleaning solvents, hydraulic and transmission fluids, petroleum and oil-related products) must be stored in designated storage areas with appropriate storage vessels to contain the materials and prevent contamination of effluent; examples include storing the materials indoors and installing berms/dikes around area(s); proper storage of all materials shall comply with local and federal laws;
      iv) vehicle and equipment (e.g., tank, fuel lines) cleaning areas must have measures to prevent or minimize contamination of effluent from all areas used for vehicle and equipment cleaning; these areas must have

appropriate containment and/or diversionary structures or equipment to ensure wash water is filtered and recycled where feasible; and

v) vehicle and equipment maintenance areas must have measures that prevent or minimize contamination of effluent from all areas used for vehicle and equipment maintenance such as performing maintenance activities indoor; using drip pans, and treating and/or recycling collected effluent.

b. minimizing exposure: where practicable, industrial materials and activities must be protected to prevent exposure to rain or runoff.

c. preventive maintenance program: the permitee shall develop and implement a preventative maintenance program, which includes timely inspections and maintenance of water management devices, (e.g., cleaning oil/water separators) as well as inspecting, testing, maintaining and repairing facility equipment and systems to avoid breakdowns or failures that may result in discharges of pollutants to surface waters; all BMPs must be maintained in effective operating condition to control source runoff.

d. spill prevention and response procedures: the permittee shall develop and implement a Spill Prevention, Control and Countermeasure (SPCC) Plan in accordance with 40 CFR § 112; the SPCC Plan must describe the procedures that will be followed for cleaning up spills or leaks and for disposal of oil and hazardous waste; measures for cleaning up spills or leaks and disposal of such materials must be consistent with applicable RCRA regulations at 40 CFR §§ 264 and 265 and CWA regulations at 40 CFR § 112.

e. routine facility inspections: qualified personnel must inspect all areas of the facility where industrial materials or activities are exposed to water (i.e., storage areas for vehicles/equipment awaiting maintenance, fueling areas, vehicle/equipment maintenance areas, material storage areas, line-flushing area, vehicle/equipment cleaning areas, and loading/unloading area, location(s) of oil/water separators, storm drains, etc.); inspections must include an evaluation of existing BMPs; and inspections shall occur at least once per week.

f. pollution prevention training program for the facility: Prior to operating in areas where industrial materials or activities generate effluent, all employees and contractors shall be trained in spill response, good housekeeping and material management practices, proper fueling practices, and proper painting or sandblasting procedures for the removal of paint. All employees and contractors shall be re-trained at least once per year. A log of training dates, the topics covered, and participants in each training must be maintained onsite.

g. sediment and erosion control: The permittee shall develop and implement structural, vegetative, and/or stabilization BMPs to limit erosion must be implemented in areas of the facility that have a potential for significant soil erosion.

3. Metals. The permittee shall develop and implement BMPs that address discharges from two outfall categories – alkaline mine drainage and coal preparation plants and coal preparation plant associated areas. The BMPs shall include treatment controls or engineered structures or pollution control technologies to minimize or prevent the discharge of untreated effluent including, but not limited to, retention ponds or impoundments or filtration to reduce or remove total suspended solids and heavy metals that adhere to such suspended matter. These BMPs shall achieve the following:
   a) Minimize the number and quantity of pollutants and/or the toxicity generated, discharged, or potentially discharged at the site;
   b) Control discharge flows and prevent discharge exceeding the treatment capacity of the facility; and
   c) Minimize discharges of pollutants from any dewatering activities through use of on-site control measures and implementation of material compatibility and good housekeeping practices.

4. Flocculants. The permittee is authorized to use flocculants contingent on providing notice to EPA at least 15 days prior to such use. The permittee shall send such notification by email to the Region 9 NPDES Permits Section manager and R9NPDES@epa.gov,. The permittee's notification shall include information about the chemical composition and/or commercial name of the flocculant and the safety data sheet (SDS) for the flocculant. Additionally, when flocculants are used, the permittee shall make appropriate updates to the Pollution Prevention Plan described in Section B. below.

B. Pollution Prevention Plan

1. The permittee shall develop and implement a Pollution Prevention Plan ("Plan") that describes the pollution prevention measures and BMPs that shall be implemented at the facility as described above. The Plan shall be updated and implemented 90 days from effective date of the Permit. The revised Plan shall be submitted to EPA 90 days from the effective date of the Permit.

2. The Plan shall identify the potential sources of pollution that may reasonably be expected to affect the quality of the effluent discharges from the facility and describe the design specifications and implementation practices that will be used to reduce the pollutants in effluent discharges from the facility and assure compliance with the terms and conditions of this permit. The most current version of the Plan shall be retained on-site and be made available, upon request by EPA or Navajo Nation.

3. The Plan shall include at a minimum the following contents:
   a. the identification of a pollution prevention committee (with name of each individual member) or individual(s) (by name or title) within the facility organization responsible for developing, implementing and maintaining the Plan.

b. a description of the facility that includes:
   (i) a description of the nature of the industrial activity(ies) at the facility;
   (ii) a general location map (e.g., USGS quadrangle, or other map) with enough detail to identify the location of the facility and the receiving waters within one mile of the facility;
   (iii) treatment system schematics, drawings, and/or maps, including up-to-date facility site plans;
   (iv) a drainage site map identifying the directions (using arrows) of water flow; locations of all existing structural BMPs and all surface water bodies; locations of potential pollutant sources and locations of significant materials and activities (e.g., fueling stations, vehicle and equipment cleaning areas, loading/unloading areas, locations used for treatment, storage and disposal of wastes, processing and storage areas, liquid storage tanks, location of transfer of substance in bulk, etc.) that exposed to precipitation; and locations of outfalls.

c. the name of the nearest receiving water(s) that receives or may receive effluent discharges from the facility.

d. a summary of potential pollutant sources that includes: a description of each separate area of the facility where industrial materials or activities that generate effluent and those that are exposed to stormwater (e.g., on-site waste storage or disposal, dirt/gravel parking areas for vehicles for vehicles awaiting maintenance, fueling areas, bulk storage areas) are located and a list of associate pollutant(s) or parameters (e.g., pH, BOD, etc.) for each material or activity.

e. a plan for compliance with the terms of this permit documenting how control measures will be implemented..

f. a description of existing and planned BMPs for discharge controls, including, at a minimum, the BMPs required under Part III.A. The Plan shall describe the type and location of existing non-structural and structural BMPs selected for each of the areas where industrial materials or activities are exposed to stormwater or generate non-stormwater discharges.

g. a copy of this permit.

4. The Plan must have management approval and shall display the date of the most recent management approval.

5. The Plan shall be updated whenever there is a change in design, construction, operation, or maintenance of the facility which has a significant effect on the discharge, or potential for discharge, of pollutants from the facility.

6. The Plan shall be updated whenever there is indication of pollutants in the effluent discharge that may impact water quality standards; indication of pollutants requires

the permittee to evaluate potential pollutant sources and corresponding BMPs and make appropriate Plan revisions; the permittee shall implement timely corrective actions and revise BMPs, as necessary.

Part IV. STANDARD CONDITIONS

The permittee shall comply with all EPA Region 9 Standard Conditions below.

A. All NPDES Permits

In accordance with 40 CFR § 122.41, the following conditions apply to all NPDES permits and are expressly incorporated into this permit.

1. Duty to comply; at 40 CFR § 122.41(a).

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

   a. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under 405(d) of the CWA within the time provided in the regulations that established these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

   b. The Clean Water Act provides that 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 sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed $25,000 per day for each violation. The Clean Water Act provides that any person who negligently violates sections 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 of 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. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or 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. 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 of 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.[1]

c. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed $10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $25,000. Penalties for Class II violations are not to exceed $10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $125,000.[1]

2. Duty to reapply; at 40 CFR § 122.41(b).

   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. Any permittee with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Director.

3. Need to halt or reduce activity not a defense; at 40 CFR § 122.41(c).

   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.

4. Duty to mitigate; at 40 CFR § 122.41(d).

   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.

5. Proper operation and maintenance; at 40 CFR § 122.41(e).

   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

[1] The civil and administrative penalty amounts are adjusted annually for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, and the current penalty amounts are set forth in 40 CFR § 19.4.

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 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 the permit.

6. Permit actions; at 40 CFR § 122.41(f).

   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.

7. Property rights; at 40 CFR § 122.41(g).

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

8. Duty to provide information; at 40 CFR § 122.41(h).

   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.

9. Inspection and entry; at 40 CFR § 122.41(i).

   The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by 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 purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

10. Monitoring and records; at 40 CFR § 122.41(j).

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

    b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR § 503), 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.

    c. Records of monitoring information shall include:

        (1) The date, exact place, and time of sampling or measurements;

        (2) The individual(s) who performed the sampling or measurements;

        (3) The date(s) analyses were performed

        (4) The individuals(s) who performed the analyses;

        (5) The analytical techniques or methods used; and

        (6) The results of such analyses.

    d. Monitoring must be conducted according to test procedures approved under 40 CFR § 136 or, in the case of sludge use or disposal, approved under 40 CFR § 136 unless otherwise specified in 40 CFR § 503, unless other test procedures have been specified in the permit.

    e. The CWA provides that any person who falsifies, tampers with, or knowingly 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 2 years, or 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.

11. Signatory requirement; at 40 CFR § 122.41(k).

    a. All applications, reports, or information submitted to the Director shall be signed and certified. (See 40 CFR § 122.22.) 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: (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.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in 40 CFR § 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under 40 CFR § 122.22(a)(1)(ii) rather than to specific individuals.

(2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or

(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).

b. All reports required by permits, and other information requested by the Director shall be signed by a person described in 40 CFR § 122.22(a), 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 in 40 CFR § 122.22(a);

(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 well field, superintendent, position of equivalent responsibility, or an individual or

position having overall responsibility for environmental matters of the company, (a duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

(3) The written authorization is submitted to the Director.

c. Changes to authorization. If an authorization under 40 CFR § 122.22 (b) 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 40 CFR § 122.22(b) must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing a document under 40 CFR § 122.22 (a) or (b) 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."

e. The CWA 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 non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

12. Reporting requirements; at 40 CFR § 122.41(l).

a. Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alternations 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 § 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 under 40 CFR § 122.42(a)(1).

(3) 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;

b. 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.

c. 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 CWA. (See 40 CFR § 122.61; in some cases, modification or revocation and reissuance is mandatory.)

(1) Transfers by modification. Except as provided in 40 CFR § 122.61(b), a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under 40 CFR § 122.62(b)(2)), or a minor modification made (under 40 CFR § 122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.

(2) Automatic transfers. As an alternative to transfers under 40 CFR § 122.61(a), any NPDES permit may be automatically transferred to a new permittee if:

(A) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date in 40 CFR § 122.62(b)(2);

(B) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

(C) The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this subparagraph may also be a minor modification under 40 CFR § 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in 40 CFR § 122.63(b)(2).

d. Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices. As of December 21,

2016 all reports and forms submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR § 127.2(b), in compliance with this section and 40 CFR § 3 (including, in all cases, subpart D to part 3), 40 CFR § 122.22, and 40 CFR § 127.

(2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR § 136 or, in the case of sludge use or disposal, approved under 40 CFR § 503, or as specified in the permit, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.

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

e. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

f. Twenty-four hour reporting.

(1) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A report shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain a description of the noncompliance and its cause; 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 steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery) as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. As of December 21, 2025 all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR § 127.2(b), in compliance with this 40 CFR § 122.41 and 40 CFR § 3

(including, in all cases, subpart D to part 3), 40 CFR § 122.22, and 40 CFR § 127. The permittee shall electronically submit all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events using CDX (https://cdx.epa.gov/) in accordance with the reporting requirements specified in this permit. The permittee must also sign and certify all electronic submissions in accordance with the signatory requirements specified at 40 CFR § 122.41(k).

(2) The following shall be included as information which must be reported within 24 hours under this paragraph.

(i) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR § 122.41(g).)

(ii) Any upset which exceeds any effluent limitation in the permit.

(iii)Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See 40 CFR § 122.44(g).)

(3) The Director may waive the written report on a case-by-case basis for reports under 40 CFR § 122.41(l)(6)(ii) if the oral report has been received within 24 hours.

g. Other noncompliance. The permittee shall report all instances of noncompliance not reported under 40 CFR § 122.41(l)(4), (5), and (6), at the time monitoring reports are submitted. The reports shall contain the information listed in 40 CFR § 122.4(l)(6).

h. 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.

13. Bypass; at 40 CFR § 122.41(m).

a. Definitions.

(1) “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.

(2) “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.

b. 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 40 CFR § 122.41(m)(3) and (m)(4).

c. 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 submit notice of an unanticipated bypass as required in 40 CFR § 122.41(l)(6) (24-hour notice).

(3) As of December 21, 2025 all notices submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR § 127.2(b), in compliance with this section and 40 CFR § 3 (including, in all cases, subpart D to part 3), 40 CFR § 122.22, and 40 CFR § 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by state law.

d. Prohibition of bypass.

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

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) 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 preventative maintenance; and

(iii)The permittee submitted notices as required under 40 CFR § 122.41(m)(3).

(2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in 40 CFR § 122.41(m)(4)(i).

14. Upset; at 40 CFR § 122.41(n).

    a. Definition. "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 cause by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

    b. 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 40 CFR § 122.41(n)(3) 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.

    c. 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; and

        (3) The permittee submitted notice of the upset as required in 40 CFR § 122.41(l)(6)(ii)(B) (24 hour notice).

        (4) The permittee complied with any remedial measures required under 40 CFR § 122.41(d).

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

15. Reopener Clause; at 40 CFR § 122.44(c).

    For any permit issued to a treatment works treating domestic sewage (including "sludge-only facilities"), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

16. Minor modifications of permits; at 40 CFR § 122.63.

    Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section,

without following the procedures of 40 CFR § 124. Any permit modification not processed as a minor modification under this section must be made for cause and with 40 CFR § 124 draft permit and public notice as required in 40 CFR § 122.62. Minor modifications may only:

a. Correct typographical errors;

b. Require more frequent monitoring or reporting by the permittee;

c. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

d. Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.

e. Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under 40 CFR § 122.29.

f. Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.

g. Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR § 403.11 (or a modification thereto that has been approved in accordance with the procedures in 40 CFR § 403.18) as enforceable conditions of the POTW's permits.

17. Termination of permits; at 40 CFR § 122.64.

a. The following are causes for terminating a permit during its term, or for denying a permit renewal application:

(1) Noncompliance by the permittee with any conditions of the permit;

(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

(4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).

18. Availability of Reports; pursuant to CWA § 308

Except for data determined to be confidential under 40 CFR § 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the CWA, permit applications, permits, and effluent data shall not be considered confidential.

19. Removed Substances; pursuant to CWA § 301

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials entering waters of the U.S.

20. Severability; pursuant to CWA § 512

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 remainder of this permit, shall not be affected thereby.

21. Civil and Criminal Liability; pursuant to CWA § 309

Except as provided in permit conditions on "Bypass" and "Upset," nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

22. Oil and Hazardous Substances Liability; pursuant to CWA § 311

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 CWA.

23. State, Tribe, or Territory Law; pursuant to CWA § 510

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any applicable State, Tribe, or Territory law or regulation under authorities preserved by CWA § 510.

B. Specific Categories of NPDES Permits

In accordance with 40 CFR § 122.42, the following conditions, in addition to those set forth at 40 CFR § 122.41, apply to all NPDES permits within the category specified below and are expressly incorporated into this permit.

1. Existing manufacturing, commercial, mining, and silviculture dischargers; at 40 CFR § 122.42 (a). All existing manufacturing, commercial, mining, and silviculture dischargers must notify the Director as soon as they know or have 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 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-dinitrophenol 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 in accordance with 40 CFR § 122.21(g)(7); or

      (4) The level established by the Director in accordance with 40 CFR § 122.44(f).

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

      (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 in accordance with 40 CFR § 122.21(g)(7); or

      (4) The level established by the Director in accordance with 40 CFR § 122.44(f).

Attachment A: Definitions

1. "Approved 2023 Sediment Control Plan" means the Sediment Control Plan submitted by the Permittee in 2023 and approved on November 8, 2023.

2. "Average monthly discharge limitation" means the highest allowable 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.

3. "Average weekly discharge limitation" means the highest allowable 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.

4. "Best Management Practices" or "BMPs" are schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural, and/or managerial practices to prevent or reduce the pollution of waters of the U.S. BMPs include treatment systems, operating procedures, and practices to control: plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs may further be characterized as operational, source control, erosion and sediment control, and treatment BMPs.

5. A "composite" sample means a time-proportioned mixture of not less than eight discrete aliquots obtained at equal time intervals (e.g., 24-hour composite means a minimum of eight samples collected every three hours). The volume of each aliquot shall be directly proportional to the discharge flow rate at the time of sampling, but not less than 100 ml. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR § 136.3, Table II. Where collection, preservation, and handling procedures are not outlined in 40 CFR § 136.3, procedures outlined in the 18th edition of Standard Methods for the Examination of Water and Wastewater shall be used.

6. A "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 units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the 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 day.

7. A "daily maximum allowable effluent limitation" means the highest allowable "daily discharge."

8. A "DMR" is a "Discharge Monitoring Report" that is an EPA uniform national form, including any subsequent additions, revisions, or modifications for reporting of self-monitoring results by the permittee.

9. A "grab" sample is a single sample collected at a particular time and place that represents the composition of the discharge only at that time and place. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR § 136.3, Table II. Where collection, preservation, and handling procedures are not outlined in 40 CFR § 136.3, procedures outlined in the 18th edition of Standard Methods for the Examination of Water and Wastewater shall be used.

10. The "method detection limit" or "MDL" is the minimum concentration of an analyte that can be detected with 99% confidence that the analyte concentration is distinguishable from the method blank results, as defined by a specific laboratory method in 40 CFR § 136. The procedure for determination of a laboratory MDL is in 40 CFR § 136, Appendix B.

11. The "minimum level" or "ML" is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed in a specific analytical procedure, assuming that all the method-specific sample weights, volumes, and processing steps have been followed (as defined in EPA's draft National Guidance for the Permitting, Monitoring, and Enforcement of Water Quality-Based Effluent Limitations Set Below Analytical Detection/Quantitative Levels, March 22, 1994). If a published method-specific ML is not available, then an interim ML shall be calculated. The interim ML is equal to 3.18 times the published method-specific MDL rounded to the nearest multiple of 1, 2, 5, 10, 20, 50, etc. (When neither an ML nor MDL are available under 40 CFR § 136, an interim ML should be calculated by multiplying the best estimate of detection by a factor of 3.18; when a range of detection is given, the lower end value of the range of detection should be used to calculate the ML.) At this point in the calculation, a different procedure is used for metals, than non-metals:

    a. For metals, due to laboratory calibration practices, calculated MLs may be rounded to the nearest whole number.

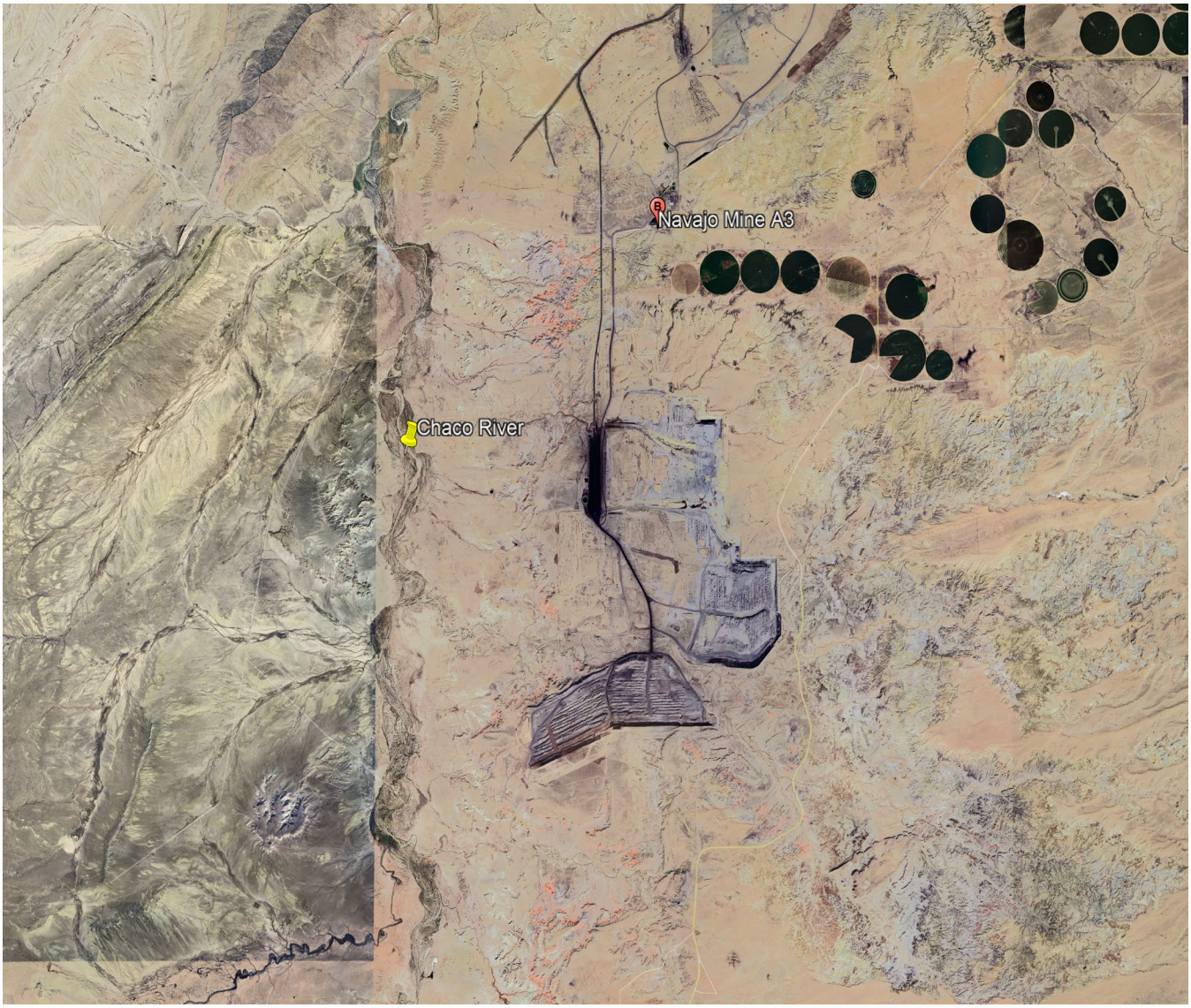
    b. For non-metals, because analytical instruments are generally calibrated using the ML as the lowest calibration standard, the calculated ML is then rounded to the nearest multiple of (1, 2, or 5) x 10n, where n is zero or an integer. (For example, if an MDL is 2.5 µg/l, then the calculated ML is: 2.5 µg/l x 3.18 = 7.95 µg/l. The

multiple of (1, 2, or 5) x 10n nearest to 7.95 is 1 x 101 = 10 µg/l, so the calculated ML, rounded to the nearest whole number, is 10 µg/l.)

12. A "NODI(B)" means that the concentration of the pollutant in a sample is not detected. NODI(B) is reported when a sample result is less than the laboratory's MDL.

13. A "NODI(Q)" means that the concentration of the pollutant in a sample is detected but not quantified. NODI(Q) is reported when a sample result is greater than or equal to the laboratory's MDL, but less than the ML.

Attachment B: Location Map



Attachment C: Outfalls

Alkaline Mine Drainage

Serial Number/	Latitude Deg.Min.Sec.	Longitude Deg.Min.Sec.	Receiving Water
Original Outfalls			
013	36-33-02	108-31-44	Chaco River
019	36-31-07	108-31-21	Chaco River
NSPS Outfalls			
020	36-30-45	108-29-49	Chaco River
021	36-30-46	108-29-37	Chaco River
022	36-31-03	108-29-05	Chaco River
023	36-31-07	108-30-44	Chaco River
4-1	36-31-04	108-31-11	Chaco River
4-2	36-30-53	108-31-31	Chaco River
4-3	36-30-45	108-30-20	Chaco River
4-4	36-30-42	108-30-26	Chaco River
4-5	36-30-45	108-31-52	Chaco River
4-6	36-30-36	108-32-18	Chaco River
4-7	36-30-33	108-32-24	Chaco River
4-8	36-30-29	108-32-37	Chaco River
4-9	36-30-26	108-30-05	Chaco River
4-10	36-30-18	108-29-58	Chaco River
4-11	36-30-09	108-29-52	Chaco River
4-12	36-30-12	108-29-45	Chaco River
4-13	36-29-42	108-29-16	Chaco River
4-15	36-29-45	108-32-28	Chaco River
4-16	36-29-20	108-31-41	Chaco River
4-17	36-29-04	108-31-22	Chaco River
4-18	36-28-56	108-30-55	Chaco River
4-19	36-28-38	108-30-42	Chaco River
4-20	36-28-29	108-30-44	Chaco River
4-21	36-28-08	108-30-31	Chaco River
4-22	36-27-54	108-30-19	Chaco River

Coal Preparation & Associated Areas

Outfall Number	Latitude Deg.Min.Sec.	Longitude Deg.Min.Sec.	Receiving Water
NSPS Outfall			
4-14	36-29-28	108-29-04	Chaco River

Western Alkaline Coal Mining

Outfall Number	Latitude Deg.Min.Sec.	Longitude Deg.Min.Sec.	Receiving Water
Original Outfalls			
004	36-38-15	108-28-44	Chaco River
006	36-37-34	108-29-58	Chaco River
007	36-37-31	108-30-14	Chaco River
008	36-37-7	108-30-39	Chaco River
009	36-36-59	108-30-58	Chaco River
010	36-36-53	108-31-20	Chaco River
011	36-35-59	108-31-37	Chaco River
11-1	35-33-36	108-32-48	Chaco River
017	36-31-10	108-32-02	Chaco River
018	36-31-31	108-32-07	Chaco River
Proposed Outfalls			
024	36-30-52	108-30-20	Chaco River
13-1	36-33-9	108-31-42	Chaco River
6-1	36-37-37	108-29-46	Chaco River
10-1	36-36-38	108-31-45	Chaco River

Attachment D: List of Priority Pollutants

Priority Pollutants are a set of chemical pollutants for which EPA has developed analytical methods. The permittee shall test for all priority pollutants listed in 40 CFR § 423, Appendix A. Certain priority pollutants (in **BOLD**) are volatile compounds and should be collected using grab samples; whereas, the remaining priority pollutants are recommended to be collected via composite samples. For reference, the 126 priority pollutants at time of issuance include:

1. Acenaphthene
2. **Acrolein**
3. **Acrylonitrile**
4. **Benzene**
5. Benzidine
6. **Carbon tetrachloride**
7. **Chlorobenzene**
8. **1,2,4-trichlorobenzene**
9. **Hexachlorobenzene**
10. **1,2-dichloroethane**
11. **1,1,1-trichloreothane**
12. **Hexachloroethane**
13. **1,1-dichloroethane**
14. **1,1,2-trichloroethane**
15. **1,1,2,2-tetrachloroethane**
16. **Chloroethane**
17. REMOVED
18. **Bis(2-chloroethyl) ether**
19. **2-chloroethyl vinyl ethers**
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. Parachlorometa cresol
23. **Chloroform**
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3-dichlorobenzidine
29. **1,1-dichloroethylene**
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. **1,2-dichloropropane**
33. **1,3-dichloropropylene**
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. **Ethylbenzene**
39. Fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. Bis(2-chloroisopropyl) ether
43. Bis(2-chloroethoxy) methane
44. **Methylene chloride**
45. **Methyl chloride**
46. **Methyl bromide**
47. **Bromoform**
48. **Dichlorobromomethane**
49. REMOVED
50. REMOVED
51. **Chlorodibromomethane**
52. Hexachlorobutadiene
53. Hexachlorocyclopentadiene
54. Isophorone
55. Naphthalene
56. Nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. Pentachlorophenol
65. Phenol
66. Bis(2-ethylhexyl) phthalate
67. Butyl benzyl phthalate
68. Di-N-Butyl Phthalate
69. Di-n-octyl phthalate
70. Diethyl Phthalate
71. Dimethyl phthalate
72. benzo(a) anthracene
73. Benzo(a)pyrene
74. Benzo(b) fluoranthene

75. Benzo(k) fluoranthene
76. Chrysene
77. Acenaphthylene
78. Anthracene
79. Benzo(ghi) perylene
80. Fluorene
81. Phenanthrene
82. Dibenzo(a,h) anthracene
83. Indeno (1,2,3-cd) pyrene
84. Pyrene
85. Tetrachloroethylene
86. Toluene
87. Trichloroethylene
88. Vinyl chloride
89. Aldrin
90. Dieldrin
91. Chlordane
92. 4,4-DDT
93. 4,4-DDE
94. 4,4-DDD
95. Alpha-endosulfan
96. Beta-endosulfan
97. Endosulfan sulfate
98. Endrin
99. Endrin aldehyde
100. Heptachlor
101. Heptachlor epoxide
102. Alpha-BHC
103. Beta-BHC
104. Gamma-BHC
105. Delta-BHC
106. PCB–1242 (Arochlor 1242)
107. PCB–1254 (Arochlor 1254)
108. PCB–1221 (Arochlor 1221)
109. PCB–1232 (Arochlor 1232)
110. PCB–1248 (Arochlor 1248)
111. PCB–1260 (Arochlor 1260)
112. PCB–1016 (Arochlor 1016)
113. Toxaphene
114. Antimony
115. Arsenic
116. Asbestos
117. Beryllium
118. Cadmium
119. Chromium
120. Copper
121. Cyanide, Total
122. Lead
123. Mercury
124. Nickel
125. Selenium
126. Silver
127. Thallium
128. Zinc
129. 2,3,7,8-TCD

Attachment E: 401 Water Quality Certification, March 14, 2025

NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY
SURFACE & GROUND WATER PROTECTION DEPARTMENT
P.O. Box 339, Window Rock, AZ 86515
Tel. (928) 871-7715 Fax. (928) 871-7818

March 14, 2025

Joshua Jones, Manager Environmental and Mine Planning
Navajo Mine
Navajo Transitional Energy Company
P.O. Box 3767
Farmington, NM 87499

RE: Clean Water Act § 401 Water Quality Certification (Project ID No. 2023-0105SR)
NPDES Permit No. NN0028193
NTEC Navajo Mine

Dear Mr. Jones:

Navajo EPA's Water Quality/NPDES Program has examined the National Pollutant Discharge Elimination System (NPDES) permit application for the NTEC Navajo Mine in Fruitland, San Juan County, NM to discharge treated wastewater. Compliance with the terms and conditions of the permit will provide reasonable assurance that the permitted activities will be conducted in a manner that will not violate applicable water quality standards.

The Navajo Nation certifies that the discharge will comply with the applicable provisions of the Clean Water Act Sections 301, 302, 303, 306, and 307 and with appropriate requirements of Navajo Nation law. In order to meet the requirements of Navajo Nation law, including water quality standards, each of the conditions cited in the NPDES permit and the Navajo Nation certification shall not be made less stringent.

Please contact Patrick Antonio at (928) 871-7185 or patrickantonio@navajo-nsn.gov if you have any questions concerning this certification.

Sincerely,

Yolanda Barney, Environmental Department Manager
Surface and Ground Water Protection Department
Navajo Nation Environmental Protection Agency

xc: Gary Sheth, U.S. EPA Region 9 NPDES Permits Section
File