

**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. NN0029386

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 discharger 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.

Discharger Name	Chevron Mining, Inc.
Discharger Address	1400 Smith Street Houston, TX 77002
Facility Name	McKinley Mine
Facility Location Address	Highway 264, 24 miles northwest of Gallup, NM
Facility Rating	Minor

Outfall Number	General Type of Waste Discharged	Outfall Latitude	Outfall Longitude	Receiving Water
48 stormwater outfalls numbered 003 through 092	Stormwater from Western Alkaline Coal Mining Reclamation Areas	From 35°17'90.27" N to 35°43'35.23" N	From 108°53'1.34" W to 109°2'6.90" W	Multiple washes on the Navajo Nation and State of New Mexico leading to the Puerco River

This permit was issued on:	Date of signature below
This permit shall become effective on:	
Permit application due no later than:	
This permit shall expire at midnight on:	

In accordance with 40 CFR § 122.21(d), the discharger 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:

Tomás Torres, Director
Water Division

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

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

1. The discharger is authorized to discharge stormwater from Western Alkaline Coal Mining Reclamation Areas, areas that are undergoing reclamation and maintenance in compliance with the effluent limits and monitoring requirements specified in Table 1, the other limitations in this permit, and the Best Management Practices (BMPs) in the EPA-approved Sediment Control Plan (SCP) which is incorporated into this permit in accordance with 40 CFR § 434.82. Monitoring shall be conducted at the outfall locations identified as substantially identical discharge points (SIDPs) in the SCP. The permittee shall:
 - a. Implement the most recent SCP approved by the Environmental Protection Agency (EPA). The permittee shall design, implement, and maintain BMPs in the manner specified in the approved SCP.
 - b. Revise the SCP to incorporate new areas undergoing reclamation or changes in the status of existing reclamation areas. As existing outfalls defined in this permit are reclaimed and discharge ceases from those outfalls, the approved SCP shall be revised to incorporate the changes. The revised SCP and revised watershed model shall be submitted to EPA within 180 days before implementing such revisions. Each revision to the Sediment Control Plan must meet all requirements contained at 40 CFR §434.82. A revised SCP and revised watershed model must be submitted to EPA and approved by EPA before becoming effective. Using watershed models, the revised SCP must demonstrate that implementation of the revised SCP will result in average annual sediment yields that will be no greater than the sediment yield levels from pre-mined, undisturbed conditions. The revised SCP shall, at a minimum, identify BMPs, including design specifications, construction specifications, maintenance schedules, criteria for inspection, and expected performance and longevity.
 - c. Maintain quarterly watershed inspection reports required by the SCP and provide them to EPA upon request.
 - d. Conduct reclamation inspections at least quarterly within the drainage areas identified in the SCP to document implementation of the SCP. Each reclamation inspection report shall include, at a minimum, the following items:
 - (1) The personnel who conducted the inspection.
 - (2) Date(s) on which the inspection was performed.
 - (3) A written summary of major observations, including observations of no deficiency
 - (4) Actions that should be taken to correct noted deficiencies within 48 hours of the incident.
 - (5) Photo documentation of findings.
 - (6) Signature of the inspector.

2. Consistent with the Navajo Nation Water Quality Standards, 2015 Revision (“Navajo Nation WQS”) and the New Mexico Standards for Interstate and Intrastate Surface Waters (“New Mexico WQS”), all discharges 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 odors; and
 - d. Unnatural color.

B. Effluent Limits and Monitoring Requirements – All Applicable Outfalls

Table 1. Effluent Limits and Monitoring Requirements

Parameter	Maximum Allowable Discharge Limits				Monitoring Requirements	
	Concentration and Loading					
	Average Monthly ⁽¹⁾	Average Weekly	Maximum Daily	Units	Frequency ⁽⁶⁾	Sample Type
Turbidity	(2)	—	(2)	NTU	As Specified in approved SCP	Grab
Flow Rate	(2)	—	(2)	MGD	As Specified in approved SCP	Calculated ⁽⁴⁾
Hardness (CaCO ₃) ⁽⁷⁾	(2)	—	(2)	mg/L	As Specified in approved SCP	Grab
pH	—	—	(2)	SU	As Specified in approved SCP	Grab
Total Suspended Solids	(2)	—	(2)	mg/L	As Specified in approved SCP	Grab
Total Dissolved Solids	(2)	—	(2)	mg/L	As Specified in approved SCP	Grab
Iron ⁽⁷⁾	(2)	—	(2)	mg/L	As Specified in approved SCP	Grab
Oil & Grease	(2)	—	(2)	mg/L	As Specified in approved SCP	Grab
Alpha Radiation ⁽⁹⁾	(2)	—	(2)	pCi/L	As Specified in approved SCP	Grab
Aluminum ⁽⁷⁾⁽⁸⁾	(2)	—	(2)	mg/L	As Specified in approved SCP	Grab
Selenium ⁽⁷⁾	(2)	—	(2)	mg/L	As Specified in approved SCP	Grab
Cyanide (total) ⁽¹⁰⁾	(2)	—	(2)	mg/L	As Specified in approved SCP	Grab
Priority Pollutant Scan ⁽⁵⁾	(2)	—	(2)	Various	Annually	Grab
Uranium ⁽⁷⁾	(2)	—	(2)	mg/L	Quarterly	Grab

- (1) In calculating and reporting the average monthly concentration when the pollutant is not detected, assign zero to the non-detected sample result if the pollutant was not detected for all monitoring periods in the prior twelve months. If the pollutant was detected in at least one monitoring period in the prior twelve months, then assign each non-detected sample result a value that is equal to one half of the detection limit for the purposes of calculating averages.
- (2) No effluent limits are set at this time but monitoring and reporting are required.
- (4) Calculation is to determine total flow in gallons for each discharge and duration of discharge, as distinguished for each applicable outfall.
- (5) See Attachment D for a list of priority pollutants. For the most current listing of all priority toxic pollutants see 40 CFR § 423, Appendix A. A priority pollutant scan should be conducted concurrently with a Whole Effluent Toxicity test (see Part C below).
- (6) Sampling shall be conducted on the first day of observed discharge. Continuous discharge sampling will be scheduled within the quarter. If sampling is not conducted on the first day of discharge, personnel will note the date of the sampling event in their records.
- (7) Metals, hardness, and selenium shall be sampled for both total recoverable and dissolved forms.
- (8) Aluminum shall also be sampled and analyzed as acid-soluble aluminum (Navajo Nation 2015).
- (9) For Alpha Radiation results greater than 15 pCi/L, radon and uranium activities shall be subtracted from gross alpha; if the analytical method removes radon, subtract uranium only (New Mexico 2025; Navajo Nation 2015).
- (10) Cyanide shall also be sampled and analyzed as free cyanide (Navajo Nation 2015).

C. Chronic Toxicity Effluent Monitoring Requirements – All Applicable Outfalls

Table 2. Effluent Monitoring Requirements for Chronic Toxicity

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

(1) The first chronic toxicity test shall be conducted using all three parameters listed in Table 2 above (i.e., species sensitivity screening) After the most sensitive species is identified, chronic toxicity tests are required

with only the most sensitive species. The permittee shall conduct and submit the results of species sensitivity screening for the discharge at the chronic toxicity IWC. 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 at the IWC for routine monitoring tests and species sensitivity screening tests. The most sensitive species as determined by the species sensitivity screening completed on one outfall in the 'Western Alkaline Coal Mining' category can be applied to all outfalls within that category. See Part II.D.3.

(2) "Report" means there is no effluent limit for the coded parameter, chronic toxicity, but monitoring and Discharge Monitoring Report ("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 (H_0) at the required discharge-specific IWC is: $IWC \text{ mean response (100\% effluent)} \leq 0.75 \times \text{Control mean response}$. 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: $PE \text{ in \% effluent} = [(Control \text{ mean response} - IWC \text{ mean response}) \div Control \text{ mean response}] \times 100$. If more than one toxicity test during the calendar month is coded as Fail (1) and the observed (estimated) $PE \geq 50$, 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, a grab sample may be collected.

D. Sampling

1. Samples shall be representative of the quality of effluent discharged over the sampling and reporting period. The Permittee shall identify the effluent sampling location used for each discharge.
2. For intermittent discharges, which occur sporadically, the permittee shall monitor on the first day of discharge. The permittee is not required to monitor more than the minimum frequency required in Table 1. If there is no discharge, the permittee is not required to monitor effluent.

E. 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 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. 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:

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 monthly* monitoring requirement when only one sample is collected during the week or month, report:

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 monthly* 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 in the Standard Conditions pursuant to 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 3. 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 Begins On...	Monitoring Period	DMR Due Date
Once/Quarter	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	28 th day of the month following calendar quarter
Once/Year	January 1 following permit effective date	January 1 through December 31	January 28, each year

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, the permittee shall submit a DMR indicating no discharge as required.

Part II. SPECIAL CONDITIONS

A. Permit Reopener(s)

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; 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.

B. Twenty-four Hour Reporting of Noncompliance

The permittee shall report any noncompliance which may endanger human health or the environment within 24 hours from the time the permittee becomes aware of the circumstances. The permittee is required to provide an oral report by directly speaking with an EPA, Navajo Nation EPA (NNEPA), and New Mexico Environment Department (NMED) Surface Water Quality Bureau staff person. If the permittee is unsuccessful in reaching a staff person from each agency directly within 24 hours, the permittee shall leave a message providing such notification and shall speak directly with a staff person by 9 a.m. on the first business day following the noncompliance. The permittee shall notify EPA, NNEPA and NMED at the following telephone numbers:

U.S. Environmental Protection Agency
CWA Enforcement and Compliance Office (ENF 3-1)
(415) 947-4222

Navajo Nation EPA
Surface & Ground Water Protection Department
(928) 871-7185

New Mexico Environment Department
Surface Water Quality Bureau
(505) 827-2798 or swq.reporting@env.nm.gov (preferred)

C. Whole Effluent Toxicity Requirements

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., $1/S \times 100$, 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 point number	Required chronic toxicity instream waste concentration (IWC) in % effluent	S	1 part effluent to S-1 parts dilutant
All Applicable 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

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).

4. 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 III.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_0) 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 = $[(\text{Control mean response} - \text{IWC mean response}) \div \text{Control mean response}] \times 100$.
- d. **Controls.** Effluent dilution water and control water shall be prepared and used as specified in the applicable WET methods manual in III.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 III.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 III.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 $\text{HCO}_3^-/\text{CO}_3^{2-}$) 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.

5. 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 2), 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).

6. 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 2), 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** when discharges occur 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.
7. Reporting of Toxicity Monitoring Results on DMR
- a. 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 (NN0029386). 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, 10th, 25th, 50th, 60th, 65th, 70th, 75th, 80th, 90th, 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.

- b. **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 $\geq$ 50. If the permittee is reporting a Median Monthly Effluent result of Fail (1), the permittee shall follow required steps listed in Part III.C.7 of this permit.

D. Best Management Practices and Pollution Prevention

The permittee shall design, develop, and implement the BMPs identified in the SCP to control or abate site runoff containing the pollutants identified in Table 1. The permittee shall conduct preventive inspections and maintenance of the BMPs to avoid failures that may result in discharges of pollutants to surface waters.

E. Natural Background Monitoring and Summary Report

In addition to monitoring discharges from outfalls as described in Table 1, the permittee shall monitor and collect samples at sites representing natural background conditions (no mining or reclamation activities). Coal Mine Wash (CMW) is the designated location for natural background sampling since the area has had no mining activities within its drainage basin. The permittee is required to conduct such natural background monitoring by collecting a single grab sample on the first day of a discharge event and measure concentrations using sufficiently sensitive EPA-approved analytical methods. For intermittent discharges, samples must be taken at the onset of each discharge occurrence. The permittee shall monitor natural background samples for the same parameters as listed in Table 1. The permittee shall submit a summary report of these monitoring results annually according to the schedule in Table 3.

The permittee may conduct monitoring and sampling for priority toxic pollutants and/or WET testing at background sites. Monitoring and sampling shall follow the same procedures as outlined in Part I.E and D of the permit. Results shall be submitted to EPA with supporting data sufficient to verify the basis for the exemption.

F. Phase III Bond Release Notification Requirement

Upon achieving Phase III Bond Release, the permittee shall notify EPA, identify outfalls proposed for removal, submit documentation confirming termination of reclamation liability, and submit an updated site-specific Sediment Control Plan.

Part III. 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).

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.

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 used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include 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, an 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 section 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 paragraph 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 above 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

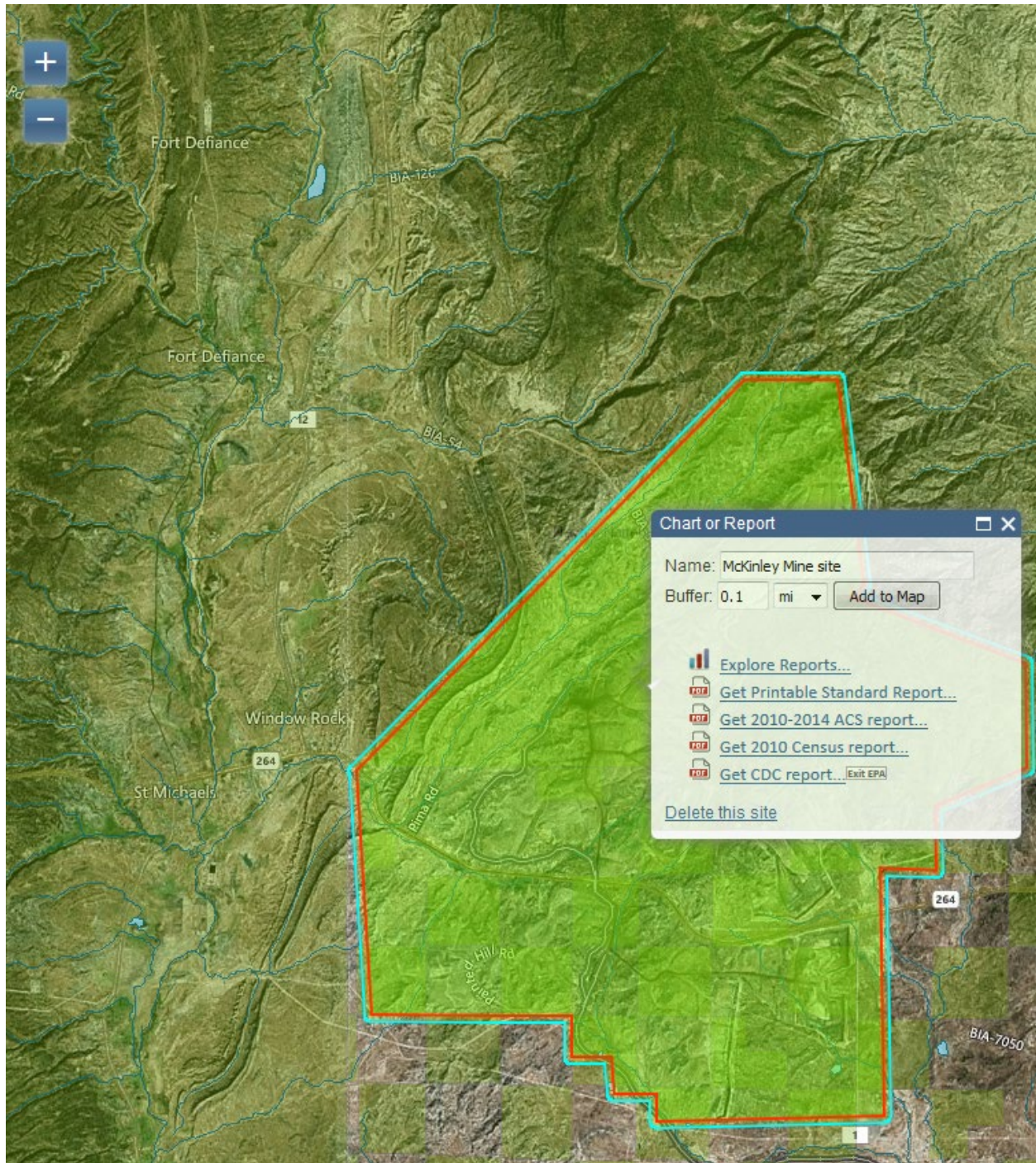
1. "Average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
2. "Average weekly discharge 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.
3. "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.
4. 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.
5. 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.

6. A “daily maximum allowable effluent limitation” means the highest allowable “daily discharge.”
7. 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.
8. 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.
9. 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 greater than zero, 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.
10. 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: $2.5 \text{ µg/l} \times 3.18 = 7.95 \text{ µg/l}$. The multiple of (1, 2, or 5) $\times 10^n$ nearest to 7.95 is $1 \times 10^1 = 10 \text{ µg/l}$, so the calculated ML, rounded to the nearest whole number, is 10 µg/l.)

11. 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.
12. 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: Outfall Classifications

Coal ELG Subpart	Outfall #	NM or NN	Lat °	Lat '	Decimal Lat	Lon °	Lon '	Decimal Lon	Receiving Water name
H	3	NN	35	40	35.67	-108	59	-109.00	Coal Mine Wash to Puerco River
H	4	NM	35	36	35.62	-108	59	-108.99	Defiance Draw to Puerco River
H	5	NM	35	37	35.62	-108	53	-108.88	Defiance Draw to Puerco River
H	6	NN	35	40	35.67	-108	53	-108.89	Defiance Draw to Puerco River
H	9	NN	35	39	35.66	-108	59	-108.99	Coal Mine Wash to Puerco River
H	10	NN	35	40	35.67	-108	59	-108.99	Coal Mine Wash to Puerco River
H	14	NN	35	40	35.68	-108	56	-108.95	Tse Bonita Wash to Puerco River
H	15	NN	35	40	35.67	-108	53	-108.90	Defiance Draw to Puerco River
H	16	NN	35	39	35.66	-108	54	-108.90	Defiance Draw to Puerco River
H	17	NN	35	40	35.67	-108	57	-108.95	Tse Bonita Wash to Puerco River
H	18	NN	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	19	NN	35	39	35.66	-108	58	-108.97	Tse Bonita Wash to Puerco River
H	20	NN	35	38	35.64	-108	58	-108.97	Defiance Draw to Puerco River
H	21	NM	35	17	35.31	-108	58	-108.97	Defiance Draw to Puerco River
H	22	NN	35	38	35.64	-108	59	-108.99	Tse Bonita Wash to Puerco River
H	23	NN	35	38	35.64	-108	59	-108.99	Tse Bonita Wash to Puerco River
H	24	NN	35	38	35.65	-108	59	-108.99	Tse Bonita Wash to Puerco River
H	26	NN	35	38	35.65	-108	58	-108.98	Tse Bonita Wash to Puerco River
H	27	NN	35	38	35.65	-108	58	-108.98	Tse Bonita Wash to Puerco River
H	28	NN	35	38	35.65	-108	58	-108.98	Tse Bonita Wash to Puerco River
H	31	NN	35	39	35.65	-108	58	-108.97	Tse Bonita Wash to Puerco River
H	32	NM	35	38	35.64	-108	57	-108.97	Defiance Draw to Puerco River
H	33	NM	35	39	35.65	-108	55	-108.92	Defiance Draw to Puerco River
H	35	NM	35	38	35.64	-108	55	-108.92	Defiance Draw to Puerco River
H	36	NM	35	37	35.63	-108	55	-108.92	Defiance Draw to Puerco River
H	58	NN	35	41	35.69	-108	58	-108.98	Coal Mine Wash to Puerco River
H	59	NN	35	41	35.69	-108	58	-108.98	Coal Mine Wash to Puerco River
H	60	NN	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	61	NN	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	63	NN	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	64	NM	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	65	NM	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	76	NN	35	39	35.65	-108	58	-108.97	Tse Bonita Wash to Puerco River
H	77	NN	35	39	26.74	-108	57	58.56	Tse Bonita Wash to Puerco River
H	79	NM	35	39	35.65	-108	55	-108.92	Defiance Draw to Puerco River

Coal ELG Subpart	Outfall #	NM or NN	Lat °	Lat '	Decimal Lat	Lon °	Lon '	Decimal Lon	Receiving Water name
H	80	NN	35	38	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	81	NN	35	39	35.66	-108	57	-108.97	Tse Bonita Wash to Puerco River
H	82	NN	35	39	35.66	-108	58	-108.97	Tse Bonita Wash to Puerco River
H	83	NN	35	39	35.66	-108	58	-108.98	Tse Bonita Wash to Puerco River
H	84	NN	35	38	35.65	-108	59	-108.98	Tse Bonita Wash to Puerco River
H	85	NN	35	39	35.65	-108	59	-108.98	Tse Bonita Wash to Puerco River
H	86	NN	35	39	35.65	-108	59	-108.98	Tse Bonita Wash to Puerco River
H	87	NN	35	39	35.65	-108	59	-108.98	Tse Bonita Wash to Puerco River
H	88	NN	35	39	35.65	-108	59	-108.98	Tse Bonita Wash to Puerco River
H	89	NN	35	39	35.65	-108	59	-108.98	Tse Bonita Wash to Puerco River
H	90	NN	35	39	35.66	-108	59	-108.98	Tse Bonita Wash to Puerco River
H	91	NN	35	39	35.66	-108	58	-108.96	Tse Bonita Wash to Puerco River
H	92	NN	35	38	33.22	-108	59	-108.96	Tse Bonita Wash to Puerco 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-trichloroethane**
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 | 101. Heptachlor epoxide |
| 73. Benzo(a)pyrene | 102. Alpha-BHC |
| 74. Benzo(b) fluoranthene | 103. Beta-BHC |
| 75. Benzo(k) fluoranthene | 104. Gamma-BHC |
| 76. Chrysene | 105. Delta-BHC |
| 77. Acenaphthylene | 106. PCB-1242 (Arochlor 1242) |
| 78. Anthracene | 107. PCB-1254 (Arochlor 1254) |
| 79. Benzo(ghi) perylene | 108. PCB-1221 (Arochlor 1221) |
| 80. Fluorene | 109. PCB-1232 (Arochlor 1232) |
| 81. Phenanthrene | 110. PCB-1248 (Arochlor 1248) |
| 82. Dibenzo(a,h) anthracene | 111. PCB-1260 (Arochlor 1260) |
| 83. Indeno (1,2,3-cd) pyrene | 112. PCB-1016 (Arochlor 1016) |
| 84. Pyrene | 113. Toxaphene |
| 85. Tetrachloroethylene | 114. Antimony |
| 86. Toluene | 115. Arsenic |
| 87. Trichloroethylene | 116. Asbestos |
| 88. Vinyl chloride | 117. Beryllium |
| 89. Aldrin | 118. Cadmium |
| 90. Dieldrin | 119. Chromium |
| 91. Chlordane | 120. Copper |
| 92. 4,4-DDT | 121. Cyanide, Total |
| 93. 4,4-DDE | 122. Lead |
| 94. 4,4-DDD | 123. Mercury |
| 95. Alpha-endosulfan | 124. Nickel |
| 96. Beta-endosulfan | 125. Selenium |
| 97. Endosulfan sulfate | 126. Silver |
| 98. Endrin | 127. Thallium |
| 99. Endrin aldehyde | 128. Zinc |
| 100. Heptachlor | 129. 2,3,7,8-TCD |

Attachment E: 401 Water Quality Certification(s)

Navajo Nation Water Quality Certification



NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY
SURFACE & GROUND WATER PROTECTION DEPARTMENT
P.O. Box 339, Window Rock, AZ 86515
Tel. (928) 871-7690 Fax. (928) 871-7996



DR. BUU NYGREN
PRESIDENT

RICHELLE MONTOYA
VICE-PRESIDENT

May 13, 2026

Kelsey Husted
Water Division, NPDES Permits Office
U.S. Environmental Protection Agency-Region XI
75 Hawthorne Street
San Francisco, CA 94105

RE: Clean Water Act § 401 Water Quality Certification (Project ID No. 2023-0291WR)
NPDES Permit No. NN0029386 Chevron Mining, Inc.

Dear Mrs. Husted:

The Navajo Nation Environmental Protection Agency's (NNEPA) Water Quality/NPDES Program reviewed the 401-certification application for the Chevron Mining, Inc. located in Tse Bonito, NM. Compliance with the terms and conditions of the National Pollutant Discharge Elimination System Permit No. NN0029386 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 provision of the Clean Water Act Section 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 draft permit and the Navajo Nation certification shall not be made less stringent.

Please contact Kayla Chapo if you have any questions concerning this certification.

Sincerely,

A blue ink signature of Yolanda Barney.

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

xc: File
Armando Martinez, Chevron Mining, Inc.
Cameron Twing, Trihydro Corporation
Tyrel Hulet, Trihydro Corporation

New Mexico Water Quality Certification

DRAFT