

GROUND WATER DISCHARGE PERMIT RENEWAL AND MODIFICATION

Hobbs Generating Station, DP-1620

I. INTRODUCTION

The New Mexico Environment Department (NMED) issues this Discharge Permit Renewal and Modification (Discharge Permit), DP-1620, to Lee Power Partners, LLC (permittee) pursuant to the New Mexico Water Quality Act (WQA), NMSA 1978 §§74-6-1 through 74-6-17, and the New Mexico Water Quality Control Commission (WQCC) Regulations, 20.6.2 NMAC.

NMED's purpose in issuing this Discharge Permit, and in imposing the requirements and conditions specified herein, is to control the discharge of water contaminants from the Hobbs Generating Station (HGS; facility) into ground and surface water, so as to protect ground and surface water for present and potential future use as domestic and agricultural water supply and other uses and protect public health. In issuing this Discharge Permit, NMED has determined that the requirements of Subsection C of 20.6.2.3109 NMAC have been met.

The activities which produce the discharge, the location of the discharge, and the quantity, quality and flow characteristics of the discharge are briefly described as follows:

Up to five million gallons per month on an annual average, of cooling tower blowdown, boiler blowdown, reverse osmosis (RO) reject, and filter backwash industrial wastewater generated from a 600-megawatt natural gas fired electrical generation plant is discharged to two double synthetically lined evaporation lagoons with leak detection for storage (3.6 million gallon total lagoon storage capacity). Wastewater from the lagoons is land applied through one center-pivot sprinkler system to a 58.62 acre tract of cropland under cultivation and/or native vegetation. The modification consists of an increase in the maximum daily discharge volume from 86,400 to 166,667 gpd; a change in the location of the discharge to a land application area located at the facility; and a change in the quality of the wastewater discharge.

The discharge contains water contaminants which may be elevated above the standards of Section 20.6.2.3103 NMAC and/or the presence of toxic pollutants as defined in Subsection WW of 20.6.2.7 NMAC.

The facility is located approximately 10 miles west of Hobbs, in Section 25, T18S, R36E, Lea County. Ground water most likely to be affected is at a depth of approximately 50 feet and has a total dissolved solids concentration of approximately 340 milligrams per liter.

The original Discharge Permit was issued on April 2, 2007. The permittee's application consists of the materials submitted by the permittee dated March 19, 2010, May 17, 2010, and May 27, 2010, and materials contained in the administrative record prior to issuance of this Discharge Permit. The discharge shall be managed in accordance with all conditions and requirements of this Discharge Permit.

Pursuant to Section 20.6.2.3109 NMAC, NMED reserves the right to require a Discharge Permit Modification in the event NMED determines that the requirements of 20.6.2 NMAC are being or may be violated or the standards of Section 20.6.2.3103 NMAC are being or may be violated. This may include a determination that structural controls and/or management practices approved

under this Discharge Permit are not protective of ground water quality, and that more stringent requirements to protect and/or remediate ground water quality may be required by NMED. These requirements may include: lining/relining lagoons; expanding land application areas; changing waste management practices; expanding monitoring requirements; installing an advanced treatment system; and/or implementing abatement of water pollution.

Issuance of this Discharge Permit does not relieve the permittee of the responsibility to comply with the WQA, WQCC Regulations, and any other applicable federal, state and/or local laws and regulations, such as zoning requirements and nuisance ordinances.

The following abbreviations may be used in this Discharge Permit:

| Abbreviation | Explanation | Abbreviation | Explanation |
|--------------------|-----------------------------------|-----------------|----------------------------------|
| BOD ₅ | biochemical oxygen demand (5-day) | NTU | nephelometric turbidity units |
| CFR | Code of Federal Regulations | Org | organisms |
| Cl | chloride | TDS | total dissolved solids |
| LADS | land application data sheet(s) | TKN | total Kjeldahl nitrogen |
| mg/L | milligrams per liter | total nitrogen | TKN+NO ₃ -N |
| mL | milliliters | TRC | Total Residual Chlorine |
| NMAC | New Mexico Administrative Code | TSS | total suspended solids |
| NMED | New Mexico Environment Department | WQA | New Mexico Water Quality Act |
| NMSA | New Mexico Statutes Annotated | WQCC | Water Quality Control Commission |
| NO ₃ -N | nitrate-nitrogen | SO ₄ | sulfate |

II. FINDINGS

In issuing this Discharge Permit, NMED finds:

1. The permittee is discharging effluent or leachate from the facility so that such effluent or leachate may move directly or indirectly into ground water within the meaning of Section 20.6.2.3104 NMAC.
2. The permittee is discharging effluent or leachate from the facility so that such effluent or leachate may move into ground water of the State of New Mexico which has an existing concentration of 10,000 milligrams per liter or less of total dissolved solids within the meaning of Subsection A of 20.6.2.3101 NMAC.
3. The discharge from the facility is not subject to any of the exemptions of Section 20.6.2.3105 NMAC.

III. CONDITIONS

The following conditions shall be complied with by the permittee and are enforceable by NMED. The permittee is authorized to discharge water contaminants subject to the following conditions:

OPERATIONAL PLAN

| # | Terms and Conditions |
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| 1. | The permittee shall implement the following operational plan to ensure compliance with Title 20, Chapter 6, Parts 1 and 2 NMAC. [20.6.2.3106.C NMAC, 20.6.2.3107 NMAC] |
| 2. | The permittee shall operate in a manner such that standards and requirements of Sections 20.6.2.3101 and 20.6.2.3103 NMAC are not violated. [20.6.2.3101 NMAC, 20.6.2.3103 NMAC] |
| 3. | The permittee is authorized to discharge up to five million gallons per month on an annual average, not to exceed five million gallons per month of industrial wastewater to two double synthetically lined evaporation lagoons with leak detection for storage. Wastewater from the lagoons is land applied through one center-pivot sprinkler system to a 58.62 acre tract of cropland under cultivation and/or native vegetation. [20.6.2.3104 NMAC, 20.6.2.3106 NMAC] |
| 4. | <p>The lagoon liners shall be maintained in such a manner as to avoid conditions which could affect the structural integrity of the lagoons and/or lagoon liners. Such conditions include, but are not limited to:</p> <ul style="list-style-type: none"> • Erosion damage; • Animal activity/damage; • The presence of vegetation, such as; aquatic plants, weeds, woody shrubs or trees growing within five feet of the lagoon edges or within the lagoons themselves; • Evidence of seepage; • Evidence of berm subsidence; and/or • The presence of large pieces or large quantities of debris in the lagoons. <p>The permittee shall visually inspect the lagoons and surrounding berms on a monthly basis to ensure proper maintenance. Vegetation growing around the lagoons shall be routinely controlled by mechanical removal in a manner that is protective of the lagoon liners. Any evidence of damage to the lagoon berms or liners shall be reported to NMED immediately upon discovery. [20.6.2.3107 NMAC]</p> |
| 5. | The permittee shall maintain a minimum of two feet of freeboard between the liquid level in the lagoons and the top elevation of the lagoon liners at all times. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC] |
| 6. | <p>The permittee shall add only the following chemicals to the Water Treatment Plant, cooling towers and Heat Recovery Steam Generator (HRSG) boiler at the HGS facility as part of normal operations and/or occasional use:</p> <p><u>Commodity Chemicals:</u> Sodium Bisulfite (RO Chlorine Scavenger) – normal use Sodium Hypochlorite (Biological Control) – normal use Hydrochloric Acid (pH Control) – normal use</p> |

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| | <p>Sodium Hydroxide (CO₂ removal at Water Treatment Plant) – normal use Sulfuric Acid (pH Control) - occasional use</p> <p><u>NALCO chemicals:</u> PC-191T (RO Anti-Scalant) – normal use 3DT187 (Wet Surface Air Cooler (WSAC) Inhibitor) – normal use 3DT208 (Chiller Tower Inhibitor) – normal use ST-70 (WSAC and Chiller Biocide) – normal use BT-4000 (HRSG Drum pH Control) – normal use 5711 (HRSG Condensate Corrosion Inhibitor) – normal use</p> <p>PC-11 (RO Biocide) – occasional use (~1000 lbs/yr) PC-77 (RO Cleaner) – occasional use (~100 lbs/yr) PC-98 (RO Cleaner) – occasional use (~1000 lbs/yr) 2568 Pulv (Chiller Scale Cleaner) – occasional use (~300 lbs/yr) 960 (Cooling Water Biocide) – occasional use (~200 lbs/yr)</p> <p>If any chemicals or additives and differing quantities beside those listed are to be used, prior notification of, and approval from, NMED is required. [20.6.2.3107 NMAC]</p> |
| 7. | <p>The permittee may perform boiler cleaning operations and discharge the used cleaning solution through the double synthetically lined wastewater lagoons to the land application area approved in this permit using only those chemicals listed in Condition 6 of this permit and as provided in the e-mail submittal by the permittee titled, “<i>LPP Hobbs Generating Station DP-1620 Chemicals</i>,” dated September 12, 2011. Only the listed chemicals in the quantities described in the submittal may be used for the boiler cleaning operations. The use of unapproved chemicals, or greater quantities of approved chemicals, shall require advance approval by NMED. [20.6.2.3109 NMAC]</p> |

MONITORING, REPORTING, AND OTHER REQUIREMENTS

| # | Terms and Conditions |
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| 8. | <p>The permittee shall conduct the monitoring, reporting, and other requirements listed below. [20.6.2.3107 NMAC]</p> |
| 9. | <p>METHODOLOGY - Unless otherwise approved in writing by NMED, the permittee shall conduct sampling and analysis in accordance with the most recent edition of the following documents:</p> <ul style="list-style-type: none"> a) American Public Health Association, Standard Methods for the Examination of Water and Wastewater (18th, 19th or current) b) U.S. Environmental Protection Agency, Methods for Chemical Analysis of Water and Waste c) U.S. Geological Survey, Techniques for Water Resources Investigations of the U.S. Geological Survey d) American Society for Testing and Materials, Annual Book of ASTM Standards, Part 31.Water e) Federal Register, latest methods published for monitoring pursuant to Resources Conservation Recovery Act regulations |

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| | <p>f) U.S. Geological Survey, et al., National Handbook of Recommended Methods for Water Data Acquisition</p> <p>g) Methods of Soil Analysis: Part 1. Physical and Mineralogical Methods; Part 2. Microbiological and Biochemical Properties; and Part 3. Chemical Methods, American Society of Agronomy.</p> <p>[20.6.2.3107.B NMAC]</p> |
| <p>10.</p> | <p>The permittee shall submit quarterly monitoring reports to NMED for the most recently completed quarterly period by the 1st of February, May, August and November each year.</p> <p>Quarterly monitoring shall be performed during the following periods:</p> <ul style="list-style-type: none"> • January 1st through March 31st (first quarter) – due by May 1st; • April 1st through June 30th (second quarter) – due by August 1st; • July 1st through September 30th (third quarter) – due by November 1st; and • October 1st through December 31st (fourth quarter) – due by February 1st. <p>Monitoring requirements detailed in this Discharge Permit are summarized on the sheet titled <i>Summary of Required Actions, Monitoring and Reporting</i>. [20.6.2.3107 NMAC]</p> |
| <p>11.</p> | <p>The permittee shall measure, using totalizing flow meters, the monthly volumes of wastewater discharged:</p> <ul style="list-style-type: none"> • To the synthetically lined wastewater lagoons; • From the synthetically lined wastewater lagoons to the center pivot; and • From the supplemental water well(s). <p>The monthly meter readings and monthly discharge volumes shall be submitted to NMED in the quarterly monitoring reports. The flow meter shall be calibrated to within +/- 10% of actual flow and kept operational at all times. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]</p> |
| <p>12.</p> | <p>The permittee shall perform quarterly ground water sampling in 4 monitoring wells and analyze the samples for NO₃-N, TKN, Cl, TDS, and SO₄. The permittee shall sample:</p> <ul style="list-style-type: none"> • MW-1, intended to be located hydrologically upgradient of the facility; • MW-2, intended to be located hydrologically downgradient of the western synthetically lined lagoon (West Pond); • MW-3, intended to be located hydrologically downgradient of the eastern synthetically lined lagoon (East Pond); • MW-4, intended to be located hydrologically downgradient of the land application area. <p>Ground water sample collection, preservation, transport and analysis shall be performed according to the following procedure:</p> <ol style="list-style-type: none"> a) measure the depth-to-ground water from the top of well casing to the nearest hundredth of a foot; b) purge a minimum of three well volumes of water from the well prior to sample collection; c) obtain samples from the well for analysis; d) properly prepare, preserve and transport samples; and e) analyze samples in accordance with the methods authorized in this Discharge Permit. |

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| | Depth-to-water measurements, analytical results, including the laboratory QA/QC summary report, and a facility layout map showing the location and number of each well shall be submitted to NMED in the quarterly monitoring reports. [20.6.2.3107 NMAC] |
| 13. | The permittee shall develop a ground water elevation contour map on a quarterly basis using the monitoring well survey data and quarterly depth-to-water measurements required by this Discharge Permit. The ground water elevation contour map shall depict the ground water flow direction based on the ground water elevation contours. The data and ground water elevation contour maps shall be submitted to NMED in the quarterly monitoring reports. [20.6.2.3107 NMAC] |
| 14. | Once prior to the expiration date of this Discharge Permit, NMED shall have the option to require the permittee to temporarily remove the dedicated pump from each monitoring well, if equipped, to provide access for a complete well inspection by NMED personnel. NMED shall establish the inspection date and provide at least 60 days notice to the permittee by certified mail. Dedicated pumps shall be removed at least 48 hours prior to NMED inspection to allow adequate settling time for sediment agitated from pump removal. [20.6.2.3107 NMAC] |
| 15. | The permittee shall sample wastewater from two double synthetically lined evaporation lagoons (i.e., West Pond and East Pond) for NO ₃ -N, TDS, Cl, and SO ₄ on a quarterly basis. Analytical results shall be submitted to NMED in the quarterly monitoring reports. [20.6.2.3107 NMAC] |
| 16. | The permittee shall inspect the leak detection system at the synthetically lined evaporative lagoons for the presence of any collected liquid on a quarterly basis. The permittee shall submit the results of each quarterly inspection with the quarterly monitoring reports. [20.6.2.3107 NMAC] |
| 17. | The permittee shall submit Material Safety Data Sheets (MSDS) for all products used at the facility which may, with reasonable probability, enter the wastewater lagoons. The MSDS shall be submitted with the first quarterly monitoring report required by Condition 10. Upon introduction of a new chemical that may enter the wastewater lagoons, the permittee shall submit the MSDS for the new chemical with the next quarterly report. [20.6.2.3107 NMAC] |
| 18. | In the event that a cross-connection with fresh water exists, the permittee shall institute a backflow prevention method to protect wells and from contamination by wastewater prior to discharging to the land application area. Backflow prevention shall be achieved by a total disconnect (physical air gap separation between the discharge pipe and the liquid surface at least twice the diameter of the discharge pipe), or by a reduced pressure principal backflow prevention assembly (RP) installed on the line between the fresh water supply well(s) and the wastewater delivery system. Backflow prevention shall be maintained at all times. RP devices shall be inspected and tested by a certified backflow prevention assembly tester at the time of installation, repair or relocation and at least on an annual basis thereafter. The backflow prevention assembly tester shall have successfully completed a 40-hour backflow prevention course based on the University of Southern California's Backflow Prevention Standards and Test Procedures, and obtained certification demonstrating completion. A malfunctioning RP device shall be repaired or replaced within 30 days of discovery, and use of all supply lines associated with the RP device shall cease until repair |

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| | <p>or replacement has been completed. Copies of the inspection and maintenance records and test results for each RP device associated with the backflow prevention program shall be maintained at a location available for inspection by NMED.</p> <p>[NMSA 1978, § 74-6-5.D, Subsections B and C of 20.6.2.3109 NMAC]</p> |
| <p>19.</p> | <p>In addition to, and as part of one the ground water sampling events as required by Condition 12 of this permit, the permittee shall perform two ground water sampling events, (one in 2013 and one in 2015), in four monitoring wells and analyze the samples for all organic and inorganic constituents listed under 20.6.2.3103 NMAC, toxic pollutants listed under 20.6.2.7.WW NMAC and all major anions and cations not otherwise captured.</p> <p>The permittee shall sample:</p> <ul style="list-style-type: none"> • MW-1, intended to be located hydrologically upgradient of the facility; • MW-2, intended to be located hydrologically downgradient of the western synthetically lined lagoon (West Pond); • MW-3, intended to be located hydrologically downgradient of the eastern synthetically lined lagoon (East Pond); • MW-4, intended to be located hydrologically downgradient of the land application area. <p>Ground water sample collection, preservation, transport and analysis shall be performed according to the following procedure:</p> <ol style="list-style-type: none"> a) measure the depth-to-ground water from the top of well casing to the nearest hundredth of a foot; b) purge a minimum of three well volumes of water from the well prior to sample collection; c) obtain samples from the well for analysis; d) properly prepare, preserve and transport samples; and e) analyze samples in accordance with the methods authorized in this Discharge Permit. <p>Depth-to-water measurements, analytical results, including the laboratory QA/QC summary report, and a facility layout map showing the location and number of each well shall be submitted to NMED in the quarterly monitoring report due by November 1st in 2013 and 2015. [20.6.2.3107 NMAC]</p> |
| <p>20.</p> | <p>In addition to, and as part of one of the wastewater sampling events as required in Condition 15 of this permit, the permittee shall perform two wastewater sampling events, (one in 2013 and one in 2015), from two double synthetically lined evaporation lagoons (i.e., West Pond and East Pond) for samples for all organic and inorganic constituents listed under 20.6.2.3103 NMAC, toxic pollutants listed under 20.6.2.7.WW NMAC and all major anions and cations not otherwise captured. Analytical results shall be submitted to NMED in the quarterly monitoring report due by November 1st in 2013 and 2015. [20.6.2.3107 NMAC]</p> |

CONTINGENCY PLAN

| # | Terms and Conditions |
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| 21. | <p>In the event that ground water monitoring indicates that a ground water quality standard identified in Section 20.6.2.3103 NMAC is exceeded; the total nitrogen concentration in ground water is greater than 10 mg/L; or a toxic pollutant (defined in Subsection WW of 20.6.2.7 NMAC) is present in a ground water sample and in any subsequent ground water sample collected from a monitoring well required by this Discharge Permit, the permittee shall enact the following contingency plan:</p> <p>Within 60 days of the subsequent sample analysis date, the permittee shall propose measures to ensure that the exceedance of the standard or the presence of a toxic pollutant will be mitigated by submitting a corrective action plan to NMED for approval. The corrective action plan shall include a description of the proposed actions to control the source and an associated completion schedule. The plan shall be enacted as approved by NMED.</p> <p>Once invoked (whether during the term of this Discharge Permit; or after the term of this Discharge Permit and prior to the completion of the Discharge Permit closure plan requirements), this condition shall apply until the permittee has fulfilled the requirements of this condition and ground water monitoring confirms for a minimum of two years of consecutive ground water sampling events that the standards of Section 20.6.2.3103 NMAC are not exceeded and toxic pollutants are not present in ground water.</p> <p>The permittee may be required to abate water pollution pursuant to Sections 20.6.2.4000 through 20.6.2.4115 NMAC, should the corrective action plan not result in compliance with the standards and requirements set forth in Section 20.6.2.4103 NMAC within 180 days of confirmed ground water contamination.</p> <p>[NMSA 1978, § 74-6-5.D, Subsection B of 20.6.2.3109 NMAC, Subsection A of 20.6.2.3107 NMAC]</p> |
| 22. | <p>In the event that information available to NMED indicates that a well(s) is not constructed in a manner consistent with the attachment titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.1, March 2011; contains insufficient water to effectively monitor ground water quality; or is not completed in a manner that is protective of ground water quality, the permittee shall install a replacement well(s) within 120 days following notification from NMED. The permittee shall survey the replacement monitoring well(s) within 150 days following notification from NMED.</p> <p>Replacement well location(s) shall be approved by NMED prior to installation and completed in accordance with the attachment titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.1, March 2011. The permittee shall submit construction and lithologic logs, and survey data and a ground water elevation contour map to NMED within 60 days following well completion.</p> |

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| | <p>Upon completion of the replacement monitoring well(s), the monitoring well(s) requiring replacement shall be properly plugged and abandoned. Well plugging, abandonment and documentation of the abandonment procedures shall be completed in accordance with the attachment titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.1, March 2011, and all applicable local, state, and federal regulations. The well abandonment documentation shall be submitted to NMED within 60 days of completion of well plugging activities.</p> <p>[NMSA 1978, § 74-6-5.D, Subsection B of 20.6.2.3109 NMAC]</p> |
| 23. | <p>In the event that ground water flow information obtained pursuant to this Discharge Permit indicates that a monitoring well(s) is not located hydrologically downgradient of the discharge location(s) it is intended to monitor, the permittee shall install a replacement well(s) within 120 days following notification from NMED. The permittee shall survey the replacement monitoring well(s) within 150 days following notification from NMED.</p> <p>Replacement well location(s) shall be approved by NMED prior to installation and completed in accordance with the attachment titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.1, March 2011. The permittee shall submit construction and lithologic logs, and survey data and a ground water elevation contour map within 30 days following well completion.</p> <p>[NMSA 1978, § 74-6-5.D, Subsection B of 20.6.2.3109 NMAC]</p> |
| 24. | <p>In the event that inspection findings reveal significant damage likely to affect the structural integrity of the double synthetically lined evaporation lagoons or its ability to contain contaminants, the permittee shall propose the repair or replacement of the impoundment liner(s) by submitting a corrective action plan to NMED for approval. The plan shall be submitted to NMED within 30 days after discovery by the permittee or following notification from NMED that significant liner damage is evident. The corrective action plan shall include a schedule for completion of corrective actions and the permittee shall initiate implementation of the plan following approval by NMED.</p> <p>[NMSA 1978, § 74-6-5.D, Subsection B of 20.6.2.3109 NMAC, Subsection A of 20.6.2.3107 NMAC]</p> |
| 25. | <p>In the event that standing liquid is present in either collection sump of the synthetically lined evaporative lagoons, the liquid shall be sampled and analyzed. Analysis requirements/constituents will be equivalent to the analysis requirements/constituents for lagoon wastewater samples. If analytical results indicate that the synthetic liner has been compromised, the permittee shall submit a corrective action plan for repair or replacement of the synthetic liner within 30 days of confirmation of the liner failure.</p> <p>[20.6.2.4103 NMAC]</p> |
| 26. | <p>In the event that a release (commonly known as a “spill”) occurs that is not authorized under this Discharge Permit, the permittee shall take measures to mitigate damage from the unauthorized discharge and initiate the notifications and corrective actions required in Section 20.6.2.1203 NMAC and summarized below.</p> <p>Within <u>24 hours</u> following discovery of the unauthorized discharge, the permittee shall verbally notify NMED and provide the following information:</p> |

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| | <p>a) The name, address, and telephone number of the person or persons in charge of the facility, as well as of the owner and/or operator of the facility.</p> <p>b) The name and address of the facility.</p> <p>c) The date, time, location, and duration of the unauthorized discharge.</p> <p>d) The source and cause of unauthorized discharge.</p> <p>e) A description of the unauthorized discharge, including its estimated chemical composition.</p> <p>f) The estimated volume of the unauthorized discharge.</p> <p>g) Any actions taken to mitigate immediate damage from the unauthorized discharge.</p> <p>Within <u>one week</u> following discovery of the unauthorized discharge, the permittee shall submit written notification to NMED with the information listed above and any pertinent updates.</p> <p>Within <u>15 days</u> following discovery of the unauthorized discharge, the permittee shall submit a corrective action plan to NMED describing any corrective actions taken and/or to be taken relative to the unauthorized discharge that includes the following:</p> <p>a) A description of proposed actions to mitigate damage from the unauthorized discharge.</p> <p>b) A description of proposed actions to prevent future unauthorized discharges of this nature.</p> <p>c) A schedule for completion of proposed actions.</p> <p>In the event that the unauthorized discharge causes or may with reasonable probability cause water pollution in excess of the standards and requirements of Section 20.6.2.4103 NMAC, and the water pollution will not be abated within 180 days after notice is required to be given pursuant to Paragraph (1) of Subsection A of 20.6.2.1203 NMAC, the permittee may be required to abate water pollution pursuant to Sections 20.6.2.4000 through 20.6.2.4115 NMAC.</p> <p>Nothing in this condition shall be construed as relieving the permittee of the obligation to comply with all requirements of Section 20.6.2.1203 NMAC.</p> <p>[NMSA 1978, § 74-6-5.D, Subsection B of 20.6.2.3109 NMAC, 20.6.2.1203 NMAC]</p> |
| 27. | <p>In the event that a minimum of two feet of freeboard cannot be maintained in the double synthetically lined evaporation lagoons at all times, the permittee shall submit a corrective action plan for NMED approval within 30 days of the date when the two feet of freeboard limit was initially exceeded. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]</p> |
| 28. | <p>In the event of a spill or release from a pipeline break, pump failure, or other major system failure at the facility, failed components shall be repaired or replaced as soon as possible and no later than 48 hours from the time of failure. If the failure cannot be repaired within 48 hours, then the permittee shall submit justification for the repair delay and a schedule of repair no later than 48 hours from the time of failure or on the next business day after a weekend. [20.6.2.3107.A.10 NMAC]</p> |
| 29. | <p>In the event that NMED or the permittee identifies any failures of the discharge plan or this Discharge Permit not specifically noted herein, NMED may require the permittee to submit a corrective action plan and a schedule for completion of corrective actions to address the</p> |

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| | <p>failure(s). Additionally, NMED may require a Discharge Permit modification to achieve compliance with 20.6.2 NMAC.</p> <p>[NMSA 1978, § 74-6-5.D, Subsections B and E of 20.6.2.3109 NMAC, Subsection A of 20.6.2.3107 NMAC]</p> |
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CLOSURE PLAN

| # | Terms and Conditions |
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| 30. | <p>Upon closure of the facility, the permittee shall perform the following closure measures:</p> <ul style="list-style-type: none"> a) Submit a closure plan and a schedule for its implementation for NMED approval at least 90 days prior to cessation of operation. b) Continue ground water monitoring as required by this Discharge Permit for two years after closure to confirm the absence of ground water contamination. If monitoring results show that the ground water standards in Section 20.6.2.3103 NMAC are being violated, the permittee shall implement the contingency plan required by this Discharge Permit. c) Following notification from NMED that post-closure monitoring may cease, the permittee shall plug and abandon the monitoring well(s) in accordance with the attachment titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.1, March 2011. <p>When all post-closure requirements have been met, the permittee may request to terminate the Discharge Permit. [20.6.2.3107.A(11) NMAC]</p> |

GENERAL TERMS AND CONDITIONS

| # | Terms and Conditions |
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| 31. | <p>RECORD KEEPING - The permittee shall maintain a written record of the following information:</p> <ul style="list-style-type: none"> a) Information and data used to complete the application for this Discharge Permit. b) Records of any releases (commonly known as “spills”) not authorized under this Discharge Permit and reports submitted pursuant to 20.6.2.1203 NMAC. c) Records of the operation, maintenance, and repair of all facilities/equipment used to treat, store or dispose of wastewater. d) Facility record drawings (plans and specifications) showing the actual construction of the facility and bear the seal and signature of a licensed New Mexico professional engineer. e) Copies of monitoring reports completed and/or submitted to NMED pursuant to this Discharge Permit. f) The volume of wastewater or other wastes discharged pursuant to this Discharge Permit. g) Ground water quality and wastewater quality data collected pursuant to this Discharge Permit. h) Copies of construction records (well log) for all ground water monitoring wells required to be sampled pursuant to this Discharge Permit. i) Records of the maintenance, repair, replacement or calibration of any monitoring |

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| | <p>equipment or flow measurement devices required by this Discharge Permit.</p> <p>j) Data and information related to field measurements, sampling, and analysis conducted pursuant to this Discharge Permit. The following information shall be recorded and shall be made available to NMED upon request:</p> <ul style="list-style-type: none"> i) The dates, location and times of sampling or field measurements; ii) The name and job title of the individuals who performed each sample collection or field measurement; iii) The sample analysis date of each sample; iv) The name and address of the laboratory, and the name of the signatory authority for the laboratory analysis; v) The analytical technique or method used to analyze each sample or collect each field measurement; vi) The results of each analysis or field measurement, including raw data; vii) The results of any split, spiked, duplicate or repeat sample; and viii) A copy of the laboratory analysis chain-of-custody as well as a description of the quality assurance and quality control procedures used. <p>The written record shall be maintained by the permittee at a location accessible during a facility inspection by NMED for a period of at least five years from the date of application, report, collection or measurement and shall be made available to the department upon request.</p> <p>[NMSA 1978, § 74-6-5.D, Subsection B of 20.6.2.3109 NMAC, Subsection A of 20.6.2.3107 NMAC]</p> |
| <p>32.</p> | <p>INSPECTION and ENTRY – The permittee shall allow inspection by NMED of the facility and its operations which are subject to this Discharge Permit and the WQCC regulations. NMED may upon presentation of proper credentials, enter at reasonable times upon or through any premises in which a water contaminant source is located or in which are located any records required to be maintained by regulations of the federal government or the WQCC.</p> <p>The permittee shall allow NMED to have access to and reproduce for their use any copy of the records, and to perform assessments, sampling or monitoring during an inspection for the purpose of evaluating compliance with this Discharge Permit and the WQCC regulations.</p> <p>Nothing in this Discharge Permit shall be construed as limiting in any way the inspection and entry authority of NMED under the WQA, the WQCC Regulations, or any other local, state or federal regulations.</p> <p>[Subsection D of 20.6.2.3107 NMAC, NMSA 1978, §§ 74-6-9.B and 74-6-9.E]</p> |
| <p>33.</p> | <p>DUTY to PROVIDE INFORMATION - The permittee shall, upon NMED’s request, allow NMED’s inspection/duplication of records required by this Discharge Permit and/or furnish to NMED copies of such records.</p> <p>[NMSA 1978, § 74-6-5.D, Subsection B of 20.6.2.3109 NMAC 20.6.2.3107.D NMAC,</p> |

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| | NMSA 1978, §§ 74-6-9.B and 74-6-9.E] |
| 34. | <p>MODIFICATIONS and/or AMENDMENTS – In the event the permittee proposes a change to the facility or the facility’s discharge that would result in a change in the volume discharged; the location of the discharge; or in the amount or character of water contaminants received, treated or discharged by the facility, the permittee shall notify NMED prior to implementing such changes. The permittee shall obtain approval (which may require modification of this Discharge Permit) by NMED prior to implementing such changes.</p> <p>[NMSA 1978, § 74-6-5.D, Subsection E of 20.6.2.3109 NMAC, Subsection C of 20.6.2.3107 NMAC]</p> |
| 35. | <p>PLANS and SPECIFICATIONS – In the event the permittee is proposing to construct a wastewater system or change a process unit of an existing system such that the quantity or quality of the discharge will change substantially from that authorized by this Discharge Permit, the permittee shall submit construction plans and specifications to NMED for the proposed system or process unit prior to the commencement of construction.</p> <p>In the event the permittee implements changes to the wastewater system authorized by this Discharge Permit which result in only a minor effect on the character of the discharge, the permittee shall report such changes (including the submission of record drawings, where applicable) as of January 1 and June 30 of each year to NMED.</p> <p>[NMSA 1978, § 74-6-5.D, Subsection B of 20.6.2.3109 NMAC, 20.6.2.1202 NMAC]</p> |
| 36. | <p>CIVIL PENALTIES - Any violation of the requirements and conditions of this Discharge Permit, including any failure to allow NMED staff to enter and inspect records or facilities, or any refusal or failure to provide NMED with records or information, may subject the permittee to a civil enforcement action. Pursuant to WQA 74-6-10(A) and (B), such action may include a compliance order requiring compliance immediately or in a specified time, assessing a civil penalty, modifying or terminating the Discharge Permit, or any combination of the foregoing; or an action in district court seeking injunctive relief, civil penalties, or both. Pursuant to WQA 74-6-10(C) and 74-6-10.1, civil penalties of up to \$15,000 per day of noncompliance may be assessed for each violation of the WQA 74-6-5, the WQCC Regulations, or this Discharge Permit, and civil penalties of up to \$10,000 per day of noncompliance may be assessed for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision. In any action to enforce this Discharge Permit, the permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Discharge Permit.</p> <p>[NMSA 1978, §§ 74-6-10 and 74-6-10.1,]</p> |
| 37. | <p>CRIMINAL PENALTIES – No person shall:</p> <ol style="list-style-type: none"> 1) make any false material statement, representation, certification or omission of material fact in an application, record, report, plan or other document filed, submitted or required to be maintained under the WQA; 2) falsify, tamper with or render inaccurate any monitoring device, method or record required to be maintained under the WQA; or 3) fail to monitor, sample or report as required by a permit issued pursuant to a state or |

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| | <p>federal law or regulation.</p> <p>Any person who knowingly violates or knowingly causes or allows another person to violate the requirements this condition is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who is convicted of a second or subsequent violation of the requirements this condition is guilty of a third degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements this condition or knowingly causes another person to violate the requirements this condition and thereby causes a substantial adverse environmental impact is guilty of a third degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements this condition and knows at the time of the violation that he is creating a substantial danger of death or serious bodily injury to any other person is guilty of a second degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15.</p> <p>[NMSA 1978, §§ 74-6-10.2.A through 74-6-10.2.F]</p> |
| 38. | <p>COMPLIANCE WITH OTHER LAWS - Nothing in this Discharge Permit shall be construed in any way as relieving the permittee of the obligation to comply with all applicable federal, state, and local laws, regulations, permits or orders.</p> <p>[20.6.2 NMAC]</p> |
| 39. | <p>RIGHT to APPEAL - The permittee may file a petition for review before the WQCC on this Discharge Permit. Such petition shall be in writing to the WQCC within thirty days of the receipt of postal notice of this Discharge Permit and shall include a statement of the issues to be raised and the relief sought. Unless a timely petition for review is made, the decision of NMED shall be final and not subject to judicial review.</p> <p>[NMSA 1978, § 74-6-5.O]</p> |
| 40. | <p>TRANSFER of DISCHARGE PERMIT - Prior to the transfer of any ownership, control, or possession of this facility or any portion thereof, the permittee shall:</p> <ol style="list-style-type: none"> 1) notify the proposed transferee in writing of the existence of this Discharge Permit; 2) include a copy of this Discharge Permit with the notice; and 3) deliver or send by certified mail to NMED a copy of the notification and proof that such notification has been received by the proposed transferee. <p>Until both ownership and possession of the facility have been transferred to the transferee, the permittee shall continue to be responsible for any discharge from the facility.</p> <p>[20.6.2.3111 NMAC]</p> |
| 41. | <p>PERMIT FEES - Payment of permit fees is due at the time of Discharge Permit approval. Permit fees shall be paid in a single payment or shall be paid in equal installments on a yearly basis over the term of the Discharge Permit. Single payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date. Initial installment payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date; subsequent installment payments shall be remitted to NMED no later than</p> |

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| <p>the anniversary of the Discharge Permit effective date.</p> <p>Permit fees are associated with <u>issuance</u> of this Discharge Permit. Nothing in this Discharge Permit shall be construed as relieving the permittee of the obligation to pay all permit fees assessed by NMED. A permittee that ceases discharging or does not commence discharging from the facility during the term of the Discharge Permit shall pay all permit fees assessed by NMED. An approved Discharge Permit shall be suspended or terminated if the facility fails to remit an installment payment by its due date.</p> <p>[Subsection F of 20.6.2.3114 NMAC, NMSA 1978, § 74-6-5.K]</p> |
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PERMIT TERM & SIGNATURE

EFFECTIVE DATE: [effective date]

TERM ENDS: [expiration date]

[Subsection H of 20.6.2.3109 NMAC, NMSA 1978, § 74-6-5.I]

JERRY SCHOEPPNER
Acting Chief, Ground Water Quality Bureau
New Mexico Environment Department