

**GROUND WATER DISCHARGE PERMIT RENEWAL**  
**Rhino Environmental Services, Inc.-Otero Facility, DP-994**

**I. INTRODUCTION**

The New Mexico Environment Department (NMED) issues this Discharge Permit Renewal (Discharge Permit), DP-994, to Rhino Environmental Services, Inc. (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 Rhino Environmental Services, Inc.-Otero Facility (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 8,066 cubic yards of hydrocarbon contaminated soil at any one time will undergo remediation within a ten acre landfarm. The ten acre landfarm is divided equally into two cells which are specific for gasoline and diesel/waste oil contaminated soil for remediation;
- Up to 100,000 gallons of hydrocarbon contaminated water at any one time will be processed and stored in ten 10,000 gallon open top tanks for disposal by evaporation; and
- Up to 5,500 gallons per day per of hydrocarbon contaminated wastewater will be utilized to enhance bioremediation of hydrocarbon contaminated soil.

The discharge contains water contaminants or toxic pollutants which may be elevated above the standards of Section 20.6.2.3103 NMAC. The facility is located approximately one mile north of Newman in Section 28, Township 26 South, Range 06 East, Otero County. Ground water most likely to be affected is at a depth of approximately 350 feet and has a total dissolved solids concentration of approximately 1,000 milligrams per liter.

The original Discharge Permit was issued on September 19, 1994 and subsequently renewed and modified on June 23, 2000 and renewed on October 4, 2005. The permittee's application consists of the materials submitted by Steve Dyer dated October 29, 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: expanding surface disposal areas; ceasing discharging to surface disposal 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
CFR	Code of Federal Regulations	NMSA	New Mexico Statutes Annotated
Cl	chloride	SDDS	Surface Disposal Data Sheet
EPA	United States Environmental Protection Agency	TDS	total dissolved solids
Mg/kg	Milligrams per kilogram	TKN	total Kjeldahl nitrogen
mg/L	milligrams per liter	TPH	total petroleum hydrocarbons
mL	milliliters	TSS	total suspended solids
NMAC	New Mexico Administrative Code	WQCC	Water Quality Control Commission
NMED	New Mexico Environment Department		

## II. FINDINGS

In issuing this Discharge Permit, NMED finds:

- I. 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.
- II. 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.
- III. The discharge from the facility is not subject to any of the exemptions of Section 20.6.2.3105 NMAC.

### III. AUTHORIZATION

The permittee is authorized to process and discharge the following waste types:

- Up to 8,066 cubic yards of hydrocarbon contaminated soil at any one time will undergo remediation within a ten acre landfarm. The ten acre landfarm is divided equally into two cells which are specific for gasoline and diesel/waste oil contaminated soil for remediation;
- Up to 100,000 gallons of hydrocarbon contaminated water at any one time will be stored in ten 10,000 gallon open top tanks for disposal by evaporation; and
- Up to 5,500 gallons per day of hydrocarbon contaminated wastewater will be utilized to enhance bioremediation of hydrocarbon contaminated soil.

Waste types that are not specifically authorized to be received by this Discharge Permit shall not be received at the facility.

[NMSA 1978, § 74-6-5.D, 20.6.2.3104 NMAC]

### IV. CONDITIONS

The following conditions shall be complied with by the permittee and are enforceable by NMED.

#### OPERATIONAL PLAN

#	Terms and Conditions
1.	The permittee shall implement the following operational plan to ensure compliance with Title 20, Chapter 6, Parts 1 and 2 NMAC.  [NMSA 1978, § 74-6-5.D, 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 NMAC and 20.6.2.3103 NMAC are not violated.  [NMSA 1978, § 74-6-5.D, 20.6.2.3103 NMAC]
3.	The permittee shall maintain fences around the entire disposal facility to prevent unrestricted access. A minimum of a three-strand barbed wire fence and locked gate shall surround the facility.  [NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC]
4.	The permittee shall maintain the following signs at the following locations:

#	Terms and Conditions
	<ul style="list-style-type: none"> <li>• Signs in both English and Spanish that state: "Notice: Waste Disposal Area - KEEP OUT" and "Aviso: Área de Disposición - NO ENTAR" posted at the facility entrance and every 500 feet along the facility boundary.</li> <li>• A sign with the name of the facility's contact person, office phone number of the contact person, emergency contact phone number for the facility, and physical location of facility including township, range, and section(s) posted at the entrance gate.</li> <li>• A sign on each tank with the name of the tank contents. Tanks containing contaminated water should be labeled "Not Potable Water" and "el agua no es potable".</li> <li>• A sign to identify each cell by number and the waste type authorized to be discharged in the cell. All signs shall be weatherproof and posted at the boundary of the cells to facilitate a rotational disposal schedule as required in conditions below.</li> </ul> <p>All signs shall remain legible for the term of this Discharge Permit.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC]</p>
5.	<p>To prevent run-on and run-off from a storm event, the permittee shall maintain a minimum 24-inch earthen berm surrounding the perimeter of the facility. The berm shall be inspected on a regular basis and after any major rainfall event and repaired as necessary. In place of a berm across the facility entrance, the permittee shall construct and maintain shallow (minimum depth of six inches) stormwater diversion bar trenches parallel to and on each side of the facility entrance gate.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3107 NMAC, 20.6.2.3109 NMAC]</p>
6.	<p>Different hydrocarbon waste types shall not be combined and shall be disposed of in separate cells that receive only a single designated waste type.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC]</p>
7.	<p>The permittee shall only accept soils or water contaminated with gasoline, diesel/fuel oil, used oil, waste oil, or oil from other sources. The permittee shall not accept hazardous waste or free product. Any soil reasonably suspected of containing hazardous waste, due to its origin, characteristic or other known factors, shall be analyzed using EPA Method 1311, Toxicity Characteristics Leaching Procedure (TCLP) in accordance with 40 CFR §261.24. Any soil suspected of containing free product shall be analyzed using EPA Method 9095, Paint Filter Liquids Test. Any soil that does not pass the tests prescribed above shall be rejected and returned to the generator.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3107 NMAC]</p>
8.	<p>The permittee shall not mix soil contaminated with used oil, waste oil, or oil from other sources with soil contaminated with uncontaminated petroleum products.</p>

#	Terms and Conditions												
	[NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC]												
9.	<p>The permittee shall not accept wastes generated from oil and natural gas production. Such wastes are regulated under the authority of the Oil Conservation Division as described by the WQCC Delegation of Responsibility to the Environmental Improvement Division and the Oil Conservation Division.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC]</p>												
10.	<p>Within 72 hours of receipt, the permittee shall distribute contaminated soil in lifts of eight inches or less (approximately 1,000 cubic yards per acre) and incorporate the contaminated soil by disking. Contaminated soil lifts shall be disked at least once every 14 days until analytical results indicate that the soil is remediated to the standards required by this Discharge Permit. Additional soil shall not be added to a remediation cell until remediation of the existing layer is confirmed by laboratory analysis.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC]</p>												
11.	<p>The permittee is authorized to apply water or hydrocarbon contaminated water to moisten soils in the remediation cells in order to enhance remediation and reduce dust. The permittee shall not apply water or hydrocarbon contaminated water to saturated soil, or in a manner which causes ponding in the soil remediation cells. The permittee shall not apply hydrocarbon contaminated water in areas outside of the remediation cells.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC]</p>												
12.	<p>The permittee shall remediate soils to the following standards:</p> <table border="1" data-bbox="251 1331 1112 1560"> <thead> <tr> <th>Chemical Constituent</th> <th>Remediation Standard (mg/kg)</th> </tr> </thead> <tbody> <tr> <td>TPH</td> <td>440</td> </tr> <tr> <td>benzene</td> <td>10.0</td> </tr> <tr> <td>toluene</td> <td>252</td> </tr> <tr> <td>ethyl benzene</td> <td>128</td> </tr> <tr> <td>xylene</td> <td>82.0</td> </tr> </tbody> </table> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC]</p>	Chemical Constituent	Remediation Standard (mg/kg)	TPH	440	benzene	10.0	toluene	252	ethyl benzene	128	xylene	82.0
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13.	<p>Accumulated solids removed from the hydrocarbon contaminated water storage tanks shall be remediated in the landfarm in accordance with the requirements of this Discharge Permit or otherwise disposed of in accordance with all local, state and federal regulations.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC]</p>												

#	Terms and Conditions
14.	The permittee shall not add amendments to the contaminated soil, such as proprietary microorganisms or fertilizer, without prior written approval by NMED.  [NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC]

### **MONITORING, REPORTING, AND OTHER REQUIREMENTS**

#	Terms and Conditions
15.	The permittee shall conduct the monitoring, reporting, and other requirements listed below.  [NMSA 1978, § 74-6-5.D, 20.6.2.3107 NMAC]
16.	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: <ol style="list-style-type: none"> <li>a) American Public Health Association, Standard Methods for the Examination of Water and Wastewater (18<sup>th</sup>, 19<sup>th</sup> or current)</li> <li>b) U.S. Environmental Protection Agency, Methods for Chemical Analysis of Water and Waste</li> <li>c) U.S. Geological Survey, Techniques for Water Resources Investigations of the U.S. Geological Survey</li> <li>d) American Society for Testing and Materials, Annual Book of ASTM Standards, Part 31. Water</li> <li>e) Federal Register, latest methods published for monitoring pursuant to Resources Conservation Recovery Act regulations</li> <li>f) U.S. Geological Survey, et al., National Handbook of Recommended Methods for Water Data Acquisition</li> <li>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.</li> </ol> [NMSA 1978, § 74-6-5.D, 20.6.2.3107.B NMAC]
17.	The permittee shall submit semi-annual monitoring reports to NMED by the 1 <sup>st</sup> of February and August each year.  Semi-annual monitoring shall be performed during the following periods: <ul style="list-style-type: none"> <li>• January 1<sup>st</sup> through June 30<sup>th</sup> (first half) – <b>report due by August 1<sup>st</sup></b>; and</li> <li>• July 1<sup>st</sup> through December 31<sup>st</sup> (second half) – <b>report due by February 1<sup>st</sup></b>.</li> </ul> [NMSA 1978, § 74-6-5.D, 20.6.2.3107 NMAC]

#	Terms and Conditions
18.	<p>The permittee shall create a manifest for each load of waste received. The manifest shall record the following information:</p> <ul style="list-style-type: none"> <li>• name of the hauling company;</li> <li>• date of receipt;</li> <li>• name and address of the waste origin;</li> <li>• type of waste or description of contamination (differentiate between product and waste oil);</li> <li>• volume of waste;</li> <li>• confirmation of inspection for acceptable waste type;</li> <li>• signature of person conducting the inspection; and</li> <li>• cell identification and location within the cell where the waste is discharged.</li> </ul> <p>Copies of each manifest created during the reporting period shall be submitted with the semi-annual monitoring report.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3107 NMAC]</p>
19.	<p>Prior to adding additional eight inch lifts, the permittee shall demonstrate that contaminated soil is remediated to the standards listed in the Operational Section above. The permittee shall collect and analyze at least one composite soil sample consisting of four soil core samples taken from the treatment zone for each two acres of landfarm remediation area annually for TPH using EPA method 1664A, SW-846 8015M, or equivalent methodology approved by NMED; and BTEX using EPA SW-846 methods 8021B, 8260B, or equivalent methodology approved by NMED. Analytical results and a map outlining the sampling locations shall be submitted to NMED in the semi-annual monitoring report for verification prior to adding additional lifts.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3107 NMAC]</p>

**CONTINGENCY PLAN**

#	Terms and Conditions
20.	<p>In the event that ground water standards are violated during the term of this Discharge Permit, upon closure of the facility or during the implementation of post-closure requirements, the permittee shall submit a corrective action plan that proposes measures to mitigate damage from the discharge including, at a minimum, source control measures and an implementation schedule to NMED. The permittee may be required to abate water pollution pursuant to Sections 20.6.2.4000 through 20.6.2.4115 NMAC, if the corrective action plan will not result in compliance with the standards and requirements set forth in</p>

#	Terms and Conditions
	<p>Section 20.6.2.4103 NMAC within 180 days of confirmation of ground water contamination.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.1203 NMAC, 20.6.2.4105.A(8) NMAC]</p>
21.	<p>In the event of a spill or release that is not authorized under this Discharge Permit, the permittee shall initiate the notifications and corrective actions as required in Section 20.6.2.1203 NMAC. The permittee shall take immediate corrective action to contain and remove or mitigate the damage caused by the discharge. Within 24 hours after discovery of the discharge, the permittee shall verbally notify NMED and provide the information required by Paragraph (1) of Subsection A of 20.6.2.1203 NMAC. Within seven days of discovering the discharge, the permittee shall submit a written report to NMED verifying the oral notification and providing any additional information or changes. The permittee shall submit a corrective action report within 15 days after discovery of the discharge.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.1203 NMAC]</p>
22.	<p>In the event NMED or the permittee identifies any other failures of the discharge plan or system not specifically noted herein, NMED may require the permittee to develop for NMED approval contingency plans and schedules to cope with the failures.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3107.A(10) NMAC]</p>

**CLOSURE PLAN**

#	Terms and Conditions
23.	<p>In the event that the hydrocarbon landfarm facility permanently closes, the permittee shall perform the following closure measures:</p> <ul style="list-style-type: none"> <li>a) Notify NMED that contaminated soil and water shall no longer be accepted.</li> <li>b) Submit a schedule for closure actions.</li> <li>c) Empty the evaporation tanks of all hydrocarbon-contaminated water. Solids shall be removed from the tanks and remediated in the landfarm in accordance with the requirements of this Discharge Permit or otherwise disposed of in accordance with all local, state and federal regulations. The tanks, as well as the contaminated water and waste from the tanks, shall be removed and disposed of in a manner approved by NMED.</li> <li>d) Continue operating and monitoring until all soils are remediated to the standards required by this Discharge Permit.</li> <li>e) Upon determination by NMED that remediation of all soils is complete, backfill the cells with clean fill (as necessary) and re-grade to allow for positive stormwater drainage. The permittee shall re-vegetate the cells at the facility by establishing a</li> </ul>

#	Terms and Conditions
	<p>vegetation cover equal to 70% of the native perennial vegetative cover consisting of at least three native plant species including at least one grass, but not including noxious weeds. The permittee shall maintain the vegetative cover through two consecutive growing seasons.</p> <p>When all closure and post-closure requirements have been met, the permittee may request to terminate the Discharge Permit.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC, 20.6.2.3107. NMAC]</p>
24.	<p>When the permittee ceases adding contaminated soil to a cell, treatment and monitoring shall continue until the contaminated soil has been remediated to the standards set forth in this Discharge Permit.</p> <p>If the standards can not be met within five years, the permittee shall submit a corrective action plan to NMED within 45 days of receipt of the fifth year's analytical results.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3109 NMAC, 20.6.2.3107. NMAC]</p>

**GENERAL TERMS AND CONDITIONS**

#	Terms and Conditions
25.	<p><b>RECORD KEEPING</b> - The permittee shall maintain a written record of the following information:</p> <ul style="list-style-type: none"> <li>a) Information and data used to complete the application for this Discharge Permit.</li> <li>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.</li> <li>c) Records of the operation, maintenance, and repair of all facilities/equipment used to treat, store or dispose of wastewater.</li> <li>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.</li> <li>e) Copies of monitoring reports completed and/or submitted to NMED pursuant to this Discharge Permit.</li> <li>f) The volume of wastewater or other wastes discharged pursuant to this Discharge Permit.</li> <li>g) Ground water quality and wastewater quality data collected pursuant to this Discharge Permit.</li> <li>h) Copies of construction records (well log) for all ground water monitoring wells required to be sampled pursuant to this Discharge Permit.</li> <li>i) Records of the maintenance, repair, replacement or calibration of any monitoring</li> </ul>

#	Terms and Conditions
	<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"> <li>i) The dates, location and times of sampling or field measurements;</li> <li>ii) The name and job title of the individuals who performed each sample collection or field measurement;</li> <li>iii) The sample analysis date of each sample;</li> <li>iv) The name and address of the laboratory, and the name of the signatory authority for the laboratory analysis;</li> <li>v) The analytical technique or method used to analyze each sample or collect each field measurement;</li> <li>vi) The results of each analysis or field measurement, including raw data;</li> <li>vii) The results of any split, spiked, duplicate or repeat sample; and</li> <li>viii) A copy of the laboratory analysis chain-of-custody as well as a description of the quality assurance and quality control procedures used.</li> </ul> <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, 20.6.2.3109.B NMAC, 20.6.2.3107.A NMAC]</p>
26.	<p><b>INSPECTION and ENTRY</b> – 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>[20.6.2.3107.D NMAC, NMSA 1978, §§ 74-6-9.B and 74-6-9.E]</p>
27.	<p><b>DUTY to PROVIDE INFORMATION</b> - The permittee shall, upon NMED’s request, allow NMED’s inspection/duplication of records required by this Discharge Permit and/or furnish</p>

#	Terms and Conditions
	<p>to NMED copies of such records.</p> <p>[NMSA 1978, § 74-6-5.D, 20.6.2.3109.B NMAC 20.6.2.3107.D NMAC, NMSA 1978, §§ 74-6-9.B and 74-6-9.E]</p>
28.	<p><b>MODIFICATIONS and/or AMENDMENTS</b> – 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, 20.6.2.3109.E NMAC, 20.6.2.3107.C NMAC]</p>
29.	<p><b>PLANS and SPECIFICATIONS</b> – 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, 20.6.2.3109.B NMAC, 20.6.2.1202 NMAC]</p>
30.	<p><b>CIVIL PENALTIES</b> - 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>

#	Terms and Conditions
	[NMSA 1978, §§ 74-6-10 and 74-6-10.1]
31.	<p><b>CRIMINAL PENALTIES</b> – No person shall:</p> <ol style="list-style-type: none"> <li>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;</li> <li>2) falsify, tamper with or render inaccurate any monitoring device, method or record required to be maintained under the WQA; or</li> <li>3) fail to monitor, sample or report as required by a permit issued pursuant to a state or federal law or regulation.</li> </ol> <p>Any person who knowingly violates or knowingly causes or allows another person to violate the requirements of 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 of 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 of this condition or knowingly causes another person to violate the requirements of 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 of 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>
32.	<p><b>COMPLIANCE with OTHER LAWS</b> - 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>
33.	<p><b>RIGHT to APPEAL</b> - 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>
34.	<p><b>TRANSFER of DISCHARGE PERMIT</b> - Prior to the transfer of any ownership, control, or possession of this facility or any portion thereof, the permittee shall:</p>

#	Terms and Conditions
	<p>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> <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>
35.	<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 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>[20.6.2.3114.F NMAC, NMSA 1978, § 74-6-5.K]</p>

**V. PERMIT TERM & SIGNATURE**

EFFECTIVE DATE: [effective date]

TERM ENDS: [date term ends]

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

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JERRY SCHOEPPNER

Acting Chief, Ground Water Quality Bureau  
New Mexico Environment Department

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