

GROUND WATER DISCHARGE PERMIT
Sapphire Energy
Algae Propagation Ponds, DP-1718

I. INTRODUCTION

The New Mexico Environment Department (NMED) issues this Discharge Permit, DP-1718, to Sapphire Energy (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 Sapphire Energy Experimental Algae Propagation Ponds (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:

Water augmented with sodium chloride, plus lesser amounts of other salts, and/or chemical fertilizer containing primarily nitrogen and phosphorous as nutrients, will be contained in synthetically lined raceway ponds within the 10-acre site for the purpose of algae propagation. Up to 170,000 gallons per day (gpd) of algae propagation wastewater containing sodium chloride, plus lesser amounts of other salts, and chemical fertilizer containing primarily nitrogen and phosphorous as nutrients will be discharged into a synthetically lined total evaporation lagoon for disposal or hauled off site by a licensed hauler for disposal in accordance with state and federal laws. Algae propagation wastewater that does not contain sodium chloride plus other salts is filtered, disinfected and discharged to the City of Las Cruces-West Mesa Industrial Park Wastewater Treatment Facility or used for landscape irrigation and dust control. 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 at 9035 Advancement Avenue, approximately 6 miles south of Las Cruces, in Section 34, Township 23S, Range 01W, Dona Ana County. Ground water most likely to be affected is at a depth of approximately 331 feet and has a total dissolved solids concentration of approximately 664 milligrams per liter.

The permittee's application constitutes the Discharge Plan and consists of the materials submitted by Bryn Davis dated April 9, 2009 and additional information received on May 4, 2009. The discharge shall be managed in accordance with the Discharge Plan as conditioned by 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 ponds; expanding monitoring requirements; and/or implementing abatement of water pollution.

Issuance of this Discharge Permit does not relieve Sapphire Energy 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)	NMSA	New Mexico Statutes Annotated
CFR	Code of Federal Regulations	NO ₃ -N	nitrate-nitrogen
CFU	colony forming units	NTU	nephelometric turbidity units
Cl	chloride	TDS	total dissolved solids
LADS	land application data sheet(s)	TKN	total Kjeldahl nitrogen
mg/L	milligrams per liter	TSS	total suspended solids
mL	milliliters	total nitrogen	TKN+NO ₃ -N
NMAC	New Mexico Administrative Code	WQCC	Water Quality Control Commission
NMED	New Mexico Environment Department		

II. FINDINGS

In issuing this Discharge Permit, NMED finds:

1. The permittee is discharging effluent or leachate from Sapphire Energy Experimental Algae Propagation Ponds 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 Sapphire Energy Experimental Algae Propagation Ponds 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 permittee from Sapphire Energy Experimental Algae Propagation Ponds 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. Sapphire Energy is permitted to discharge water contaminants subject to the following conditions:

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. [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 Section 20.6.2.3103 NMAC including human health, other domestic water supply and irrigation standards are not violated. [20.6.2.3103 NMAC]
3.	Prior to discharging nutrient and salt fortified water to the synthetically lined ponds, the permittee shall give written notification to NMED stating the date the discharge is to commence. [20.6.2.3109.H NMAC]
4.	The permittee is authorized to contain water augmented with sodium chloride, plus lesser amounts of other salts, and/or chemical fertilizer containing primarily nitrogen and phosphorous as nutrients, in synthetically lined raceway ponds within the 10-acre site for the purpose of algae propagation. [20.6.2.3104 NMAC]
5.	The permittee is authorized to discharge up to 170,000 gallons per day (gpd) of algae propagation wastewater containing sodium chloride, plus lesser amounts of other salts, and chemical fertilizer containing primarily nitrogen and phosphorous as nutrients into a synthetically lined total evaporation lagoon. Algae propagation wastewater that does not contain sodium chloride plus other salts shall be filtered, disinfected and discharged to the City of Las Cruces-West Mesa Industrial Park Wastewater Treatment Facility or may be used for landscape irrigation and dust control. [20.6.2.3104 NMAC and 20.6.2.3107 NMAC]
6.	Prior to installation of the total evaporation lagoon the permittee shall have the algae propagation wastewater containing sodium chloride and chemical fertilizer hauled off site for disposal. The algae propagation wastewater shall be pumped and disposed of by a licensed hauler. The pumping and disposal invoices shall be submitted to NMED in the monitoring reports due February 1 st and August 1st. [20.6.2.3104 NMAC and 20.6.2.3107 NMAC]
7.	The permittee shall maintain a minimum of six inches of freeboard in the propagation ponds at all times. In the event that a minimum of six inches of freeboard cannot be maintained at all times, the permittee shall submit a corrective action plan for NMED approval to modify the management of discharge volumes. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
8.	The permittee shall maintain a minimum of two feet of freeboard in the total evaporation lagoon at all times. In the event that a minimum of two feet of freeboard cannot be maintained at all times, the permittee shall submit a corrective action plan for NMED approval to modify the management of discharge volumes. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
9.	The permittee shall post signs at the facility entrance indicating that the water is not potable within 90 days of the effective date of this Discharge Permit (date). All signs shall remain visible and legible for the term of this Discharge Permit. [20.6.2.3109 NMAC]
10.	The permittee shall visually inspect the ponds and surrounding berms on a monthly basis to ensure proper maintenance. Any conditions that could damage the pond liners or affect the structural integrity of the ponds shall be corrected. Such conditions include but are not

	<p>limited to erosion damage, animal activity/damage, the presence of potentially harmful vegetation such as woody shrubs or uncontrolled weeds, evidence of seepage, or the presence of large pieces or quantities of debris. The permittee shall keep a log of the inspection findings and repairs made. In the event that inspection findings reveal significant damage likely to affect the ability of the lined ponds to contain contaminants, the permittee shall submit a corrective action plan to NMED for approval.</p> <p>[20.6.2.3107 NMAC]</p>
11.	<p>The permittee may apply algae propagation wastewater that has been filtered and disinfected, and does not contain sodium chloride plus other salts, to landscaping and for dust control purposes. The amount of total nitrogen applied in the wastewater shall not exceed 200 pounds per acre per year. Nitrogen content shall not be adjusted to account for volatilization or mineralization processes. Wastewater shall be distributed evenly over the entire area of application. Excessive ponding shall be prevented. [20.6.2.3109 NMAC]</p>
12.	<p>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 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.</p> <p>[20.6.2.3107 NMAC]</p>
13.	<p>The permittee shall meet the following general requirements for above ground use of reclaimed algae propagation wastewater :</p> <ol style="list-style-type: none"> a) The permittee shall maintain signs in English and Spanish at above ground areas receiving reclaimed algae propagation wastewater. All signs shall remain visible and legible for the term of this Discharge Permit. b) The reclaimed wastewater systems shall have no direct or indirect cross connections with potable water systems pursuant to the latest revision of the New Mexico Plumbing and Mechanical Code. c) Above ground use of reclaimed algae propagation wastewater shall not result in excessive standing or pooling of wastewater, and shall be applied at the appropriate consumptive water use rate. Irrigation shall not be conducted at times when the receiving area is saturated or frozen. d) The discharge of reclaimed algae propagation wastewater shall be confined to the area designated and approved for receiving the wastewater. e) All water supply wells within 200 feet of a wetted irrigation area shall have adequate well head construction and irrigation shall be managed to ensure protection of ground water quality. f) All existing and accessible portions of the reclaimed algae propagation wastewater system shall be colored purple or clearly labeled as being part of a reclaimed algae propagation wastewater distribution system. All piping, valves and outlets that are installed during the term of this Discharge Permit shall be color-coded in purple pursuant to the latest revision of the New Mexico Plumbing and Mechanical Code to differentiate piping or fixtures used to convey reclaimed wastewater from piping or fixtures used for potable or other water. All valves, outlets, and sprinkler heads used in

	reclaimed wastewater systems shall be of a type that can only be operated by authorized personnel. [20.6.2.3109 NMAC]
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MONITORING, REPORTING, AND OTHER REQUIREMENTS

#	Terms and Conditions
14.	The permittee shall conduct the following monitoring, reporting, and other requirements listed below. [20.6.2.3107 NMAC]
15.	<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> <ol 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) U.S. Geological Survey, et al., National Handbook of Recommended Methods for Water Data Acquisition; or f) Methods of Soil Analysis: Part 1. Physical and Mineralogical Methods and Part 2. Chemical and Microbiological Properties, American Society of Agronomy. <p>[20.6.2.3107.B NMAC]</p>
16.	<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>
17.	Construction plans and specifications of the proposed synthetically lined evaporative lagoon design shall be submitted to NMED for approval at least 60 days prior to beginning construction. The lagoon shall be constructed in accordance with the attachment titled <i>Ground Water Discharge Permit Conditions for Synthetically Lined Lagoons – Liner Material and Site Preparation</i> , Revision 0.0, May 2007. The plans shall demonstrate that the lagoon is designed at minimum to contain the maximum daily discharge volume for disposal by evaporation while maintaining two feet of freeboard at all times. Record drawings of the lagoon, lagoon liner, and final lagoon capacity calculations shall be submitted to NMED within 30 days of evaporative lagoon completion. A licensed New

	Mexico professional engineer shall certify construction plans and specifications, supporting design calculations, and record drawings of the lagoon and liner. [20.6.2.3109 NMAC]
18.	The permittee shall construct the proposed total evaporation lagoon according to the final construction plans and specifications approved by NMED. The permittee shall notify NMED at the commencement of construction to allow NMED personnel to be onsite for inspection during the construction phase. Record drawings of the finished evaporative lagoon shall be submitted to NMED within 30 days of completion. A licensed New Mexico professional engineer shall certify all construction plans and specifications, supporting design calculations, and record drawings of the wastewater treatment system. [20.6.2.3109 NMAC]
19.	<p>Within 30 days of the effective date completing construction of the evaporative lagoon, the permittee shall survey the entire facility to a U.S. Geological Survey (USGS) or other permanent benchmark and shall submit an up-to-date scaled map (or maps) of the entire facility to NMED. The map (or maps) shall be drawn to a scale such that all necessary information is plainly shown and labeled and shall include:</p> <ul style="list-style-type: none"> • A graphical scale; • A north arrow; • The effective date of the map; • All components of the wastewater treatment system and the algae propagation lagoons, • All land application areas receiving reclaimed wastewater; • All domestic and public water supply wells within 1,000 feet of the discharge site; • All ground water monitoring wells. <p>Survey data shall include northing, easting and elevation to the nearest hundredth of a foot or in accordance with the "Minimum Standards for Surveying in New Mexico" (12.8.2 NMAC). A survey elevation shall be established with a permanent marking indicating the point of survey. The survey shall be completed and certified by a licensed New Mexico professional surveyor.</p> <p>If subsurface structures cannot be directly shown due to limited information regarding their exact location (e.g. a pre-existing leachfield), they shall be identified on the map in a schematic format and labeled "not-to-scale". [20.6.2.3106 NMAC, 20.6.2.3109 NMAC]</p>
20.	Within 90 days of the effective date of this permit, by (date), the permittee shall submit a description of the algae propagation raceway ponds which includes construction materials, sizes, and volume capacities. [20.6.2.3109 NMAC]
21.	The permittee shall measure the volume of water discharged monthly to the total evaporation lagoon and to land application by recording the tank and lagoon volumes from which the discharge water originates for each discharge to the total evaporation lagoon. A log of measured water volume discharged shall be submitted to NMED in the monitoring reports due February 1 st and August 1 st . [20.6.2.3107.A(1) NMAC, 20.6.2.3109.H(1) NMAC]
22.	The permittee shall sample water from a representative location within total evaporation lagoon on a semi-annual basis and analyze the samples for TKN, NO ₃ -N, TDS and Cl.

	Analytical results shall be submitted to NMED in the monitoring reports due February 1 st and August 1 st . [20.6.2.3107 NMAC]
23.	<p>Prior to discharging to the total evaporation lagoon the permittee shall install one new monitoring well. The permittee shall install:</p> <ul style="list-style-type: none"> • One monitoring well (MW-1) located 20 to 50 feet hydrologically downgradient of the total evaporation lagoon. <p>All monitoring well locations shall be approved by NMED prior to installation. Submit information documenting ground water flow direction with the proposed monitoring well location. The wells shall be completed in accordance with the attachment titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>,</p> <p>Revision 1.0, July 2008. Construction and lithologic logs shall be submitted to NMED within 30 days of well completion. [20.6.2.3107 NMAC]</p>
24.	<p>Prior to discharging to the total evaporation lagoon, following well development and no more than five days after installation of the new monitoring well required by this Discharge Permit, the permittee shall sample ground water in the new well and analyze the sample for NO₃-N, TKN, Cl, and TDS. The permittee shall sample:</p> <ul style="list-style-type: none"> • One monitoring well (MW-1) located 20 to 50 feet hydrologically downgradient of the total evaporation lagoon. <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 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 the well shall be submitted to NMED within 45 days of the installation of the monitoring well. [20.6.2.3107 NMAC]</p>
25.	<p>The permittee shall perform quarterly ground water sampling in one monitoring well and analyze the samples for NO₃-N, TKN, Cl, and TDS. The permittee shall sample:</p> <ul style="list-style-type: none"> • MW-1, intended to be located hydrologically downgradient of the total evaporation lagoon. <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 three well volumes of water from the well prior to sample collection; c) obtain samples from the well for analysis;

	<p>d) properly prepare, preserve and transport samples; and</p> <p>e) analyze samples in accordance with the methods authorized in this Discharge Permit.</p> <p>Depth-to-water measurements, analytical results, including laboratory QA/QC summary report, and a facility layout map showing the location and number of the well shall be submitted to NMED in the quarterly monitoring reports. [20.6.2.3107 NMAC]</p>
26.	<p>Prior to discharge for dust control purposes or for landscaping irrigation, the permittee shall sample wastewater on a semi-annual basis and analyze the samples for TKN, NO₃-N, TDS and Cl. Samples shall be properly prepared, preserved, transported and analyzed in accordance with the methods authorized in this Discharge Permit. Analytical results shall be submitted to NMED in the monitoring reports due February 1st and August 1st. [20.6.2.3107 NMAC]</p>
27.	<p>The permittee shall complete land application data sheets (LADS) semi-annually that document the amount of nitrogen applied for landscaping irrigation and dust control purposes. The LADS (copy enclosed) shall reflect the nitrogen concentration from the most recent wastewater analysis and the measured discharge volumes for each month. The LADS shall be submitted to NMED in the monitoring reports due February 1st and August 1st. [20.6.2.3107 NMAC]</p>

CONTINGENCY PLAN

#	Terms and Conditions
28.	<p>In the event that monitoring indicates ground water standards are violated during the term of this Discharge Permit, upon closure of the facility or during post-closure monitoring, the permittee shall collect a confirmatory sample from the monitoring well within 15 days to confirm the initial sampling results. Within 15 days of confirmation of ground water contamination, the permittee shall submit to NMED a corrective action plan that proposes measures to mitigate damage from the discharge including, at a minimum, source control measures and an implementation schedule. 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 Section 20.6.2.4103 NMAC within 180 days of confirmation of ground water contamination. [20.6.2.1203 NMAC, 20.6.2.4105.A(8) NMAC]</p>
29.	<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 7 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. [20.6.2.1203 NMAC]</p>

30.	<p>In the event that information available to NMED indicates that a well(s) is not appropriately constructed to effectively monitor ground water quality, contains insufficient water to allow the collection of representative ground water samples, or is not completed in a manner that is protective of ground water quality, the permittee shall install a replacement well(s) within 90 days of notification from NMED. 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 1.0, July 2008. Construction and lithologic logs shall be submitted to NMED within 30 days of well completion.</p> <p>Upon completion of the replacement monitoring well(s), the monitoring well(s) requiring replacement shall be properly plugged and abandoned. The well(s) shall be plugged and abandoned in accordance with the abandonment details in the attachment titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.0, July 2008, and any applicable local, state, and federal regulations. Documentation describing the plugging and abandonment procedures, including photographic documentation, shall be submitted to NMED within 30 days of completed well abandonment. [20.6.2.3107 NMAC]</p>
31.	<p>In the event that LADS show that the amount of nitrogen in wastewater applied exceeds 200 pounds per acre per year, the permittee shall submit a corrective action plan for the reduction of nitrogen loading to the land application area. The plan shall be submitted to NMED for approval within 90 days of the end of the monitoring period in which the exceedance occurred. The corrective action plan shall be implemented within 30 days of NMED approval. [20.6.2.3107.A(10) NMAC]</p>
32.	<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. [20.6.2.3107.A(10) NMAC]</p>

CLOSURE PLAN

#	Terms and Conditions
33.	<p>Upon closure of the facility, the permittee shall perform the following closure measures:</p> <ol style="list-style-type: none"> a) Complete the installation of all monitoring wells as required by this Discharge Permit. b) Remove or plug all lines leading to the pond(s) so that a discharge can no longer occur. c) Evaporate all liquids from the pond(s) and dispose of all solids in accordance with all local, state, and federal (40 CFR Part 503) regulations. d) Perforate or remove the pond liner(s) and re-grade the ponds with clean fill to blend with surface topography and prevent ponding. e) 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.

	<p>f) 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 1.0, July 2008.</p> <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>
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GENERAL TERMS AND CONDITIONS

#	Terms and Conditions
34.	<p>RECORD KEEPING - The permittee shall maintain at its facility a written record of all 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"> a) The dates, exact place and times of sampling or field measurements; b) The name and job title of the individuals who performed each sample collection or field measurement; c) The date of the analysis of each sample; d) The name and address of the laboratory and the name and job title of the person that performed the analysis of each sample; e) The analytical technique or method used to analyze each sample or take each field measurement; f) The results of each analysis or field measurement, including raw data; g) The results of any split sampling, spikes or repeat sampling; and h) A description of the quality assurance and quality control procedures used. <p>[20.6.2.3107.A NMAC]</p>
35.	<p>RECORD KEEPING - The permittee shall maintain a written record of any spills, seeps, and/or leaks of effluent, and of leachate and/or process fluids not authorized by this Discharge Permit. [20.6.2.3107.A NMAC]</p>
36.	<p>RECORD KEEPING - The permittee shall maintain a written record of the operation, maintenance, and repair of all facilities/equipment used to treat, store or dispose of wastewater; to measure flow rates, to monitor water quality, or to collect other data required by this Discharge Permit. This record shall include repair, replacement or calibration of any monitoring equipment and repair or replacement of any equipment used in the permittee's waste or wastewater treatment and disposal system.</p> <p>[20.6.2.3107.A NMAC]</p>
37.	<p>RECORD KEEPING - The permittee shall maintain a written record of the amount of wastewater, effluent, leachate or other wastes discharged pursuant to this Discharge Permit.</p> <p>[20.6.2.3107.A NMAC]</p>
38.	<p>RECORD KEEPING - The permittee shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this Discharge Permit, and records of all data used to complete the application for this Discharge Permit for a period of at least five years from the date of the sample collection,</p>

	measurement, report or application. This period may be extended by request of the Secretary at any time. [20.6.2.3107.A NMAC]
39.	<p>INSPECTION and ENTRY - The permittee shall allow the Secretary or an authorized representative, upon the presentation of credentials, to:</p> <ol style="list-style-type: none"> Enter at regular business hours or at other reasonable times upon the permittee's premises or other location where records must be kept under the conditions of this Discharge Permit, or under any federal or WQCC regulation. Inspect and copy, during regular business hours or at other reasonable times, any records required to be kept under the conditions of this Discharge Permit, or under any federal or WQCC regulation. Inspect, at regular business hours or at other reasonable times, any facility, equipment (including monitoring and control equipment or treatment works), practices or operations regulated or required under this Discharge Permit, or under any federal or WQCC regulation. Sample or monitor, at reasonable times for the purpose of assuring compliance with this Discharge Permit or as otherwise authorized by the New Mexico Water Quality Act, any effluent, water contaminant, or receiving water at any location before or after discharge. <p>[20.6.2.3107.D NMAC, 74-6-9(B) & (E) WQA]</p>
40.	<p>INSPECTION and ENTRY - 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 applicable law or regulation.</p> <p>[20.6.2.3107 NMAC, 74-6-9(B) & (E) WQA]</p>
41.	<p>DUTY to PROVIDE INFORMATION - The permittee shall furnish to NMED, within a reasonable time, any documents or other information which it may request to determine whether cause exists for modifying, terminating and/or renewing this Discharge Permit or to determine compliance with this Discharge Permit. The permittee shall also furnish to NMED, upon request, copies of documents required to be kept by this Discharge Permit.</p> <p>[20.6.2.3107.D NMAC, 74-6-9(B) & (E) WQA]</p>
42.	<p>SPILLS, LEAKS, and OTHER UNAUTHORIZED DISCHARGES - This Discharge Permit authorizes only those discharges specified herein. Any unauthorized discharges violate Section 20.6.2.3104 NMAC and must be reported to NMED and remediated as required by Section 20.6.2.1203 NMAC. [20.6.2.1203 NMAC]</p>
43.	<p>MODIFICATIONS and/or AMENDMENTS - The permittee shall notify NMED of any changes to the permittee's wastewater treatment and disposal system, including any changes in the wastewater flow rate or the volume of wastewater storage, or of any other changes to operations or processes that would result in any significant change in the discharge of water contaminants. The permittee shall obtain NMED's approval, as a modification to this Discharge Permit pursuant to Subsections E, F, or G of 20.6.2.3109 NMAC, prior to any increase in the quantity discharged, or any increase in the concentration of water contaminants discharged, above those levels approved in this Discharge Permit. [20.6.2.3107.C NMAC]</p>
44.	<p>PLANS and SPECIFICATIONS - The permittee shall file plans and specifications with NMED for the construction of a wastewater system and for proposed changes that will change substantially the quantity or quality of the discharge from the system. The</p>

	<p>permittee shall file plans and specifications prior to the commencement of construction. Changes to the wastewater system having a minor effect on the character of the discharge shall be reported as of January 1 and June 30 of each year to NMED. [20.6.2.1202 NMAC]</p>
45.	<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. [74-6-10 WQA, 74-6-10.1 WQA]</p>
46.	<p>CRIMINAL PENALTIES – Any person who knowingly violates or knowingly causes or allows another person to:</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 federal law or regulation, is subject to felony charges and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978. <p>[74-6-10.2(A-F) WQA]</p>
47.	<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. [20.6.2 NMAC]</p>
48.	<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 (30) days of the receipt of this Discharge Permit. Unless a timely petition for review is made, the decision of NMED shall be final and not subject to judicial review. [74-6-5(O) WQA]</p>
49.	<p>TRANSFER of DISCHARGE PERMIT - Prior to the transfer of any ownership, control, or possession of this permitted facility or any portion thereof, the permittee shall notify the proposed transferee in writing of the existence of this Discharge Permit and include a copy of this Discharge Permit with the notice. The permittee shall 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. [20.6.2.3111 NMAC]</p>
50.	<p>TERM - Pursuant to WQA 74-6-5(I) and Subsection H of 20.6.2.3109 NMAC, the term of this Discharge Permit is five years from its effective date. To renew this Discharge Permit,</p>

	the permittee must submit an application for renewal at least 180 days before the termination date. [20.6.2.3109.H NMAC, 74-6-5(I) WQA]
51.	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. An approved Discharge Permit shall be suspended or terminated if the facility fails to remit an installment payment by its due date. [20.6.2.3114.F NMAC, 74-6-5(K) WQA]

EFFECTIVE DATE: Date

EXPIRATION DATE: Date

WILLIAM C. OLSON
Chief, Ground Water Quality Bureau
New Mexico Environment Department

