

**DISCHARGE PERMIT
SOUTHWEST SALT MALAGA FACILITY, DP-1754
BRINE EVAPORATION SYSTEM**

February 21 - Draft

I. INTRODUCTION

The New Mexico Environment Department (NMED) issues this Discharge Permit, DP-1754, to Southwest Salt, LLC (Southwest Salt) 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 a brine evaporation system that may move directly or indirectly 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; to abate pollution of ground and surface water; and to protect public health. In issuing this Discharge Permit, NMED has determined that the requirements of 20.6.2.3109.C NMAC have been met.

Facility Description

The Southwest Salt Malaga Facility (SSMF) consists primarily of four 20-acre synthetically lined solar evaporation ponds, processing plant and approximately three miles of pipeline connected to a brine well, C-2713. Well C-2713 is located near the bank of the Pecos River at Malaga Bend and is completed in an aquifer that produces brine from the top of the Salado Formation. Brine will be pumped from the aquifer and transferred three miles north to the to a fiberglass distribution tank located adjacent to the evaporation ponds. From the tank, the brine will be gravity fed to each of the ponds as needed. Brine distributed to the ponds will be initially allowed to evaporate and precipitate approximately one foot of salt on bottoms of the ponds to serve as protection for the synthetic liners. Subsequently, pumping rates will be maintained to keep approximately 12 inches of brine in the bottom of each pond as measured above the surface of one-foot thick salt platform. This process will be used to deposit a one-foot bed of salt top of the salt platform will be periodically harvested with earth-moving equipment. Equipment access to the salt will be provided by interior and exterior ramps constructed on a corner of each pond. Salt harvesting will be accomplished in a selected pond by pumping remaining surface liquids into an adjacent pond and then removing the solids. Brine will then be returned to the pond and maintained at a depth of 12 inches to continue the precipitation process. The process is expected to produce approximately 12 inches of precipitated harvestable salt annually. Harvested salt will be processed and packaged in a plant located adjacent to the ponds.

Location of Discharge

The SSMF and associated facilities are located approximately 14 miles southeast of Carlsbad in Eddy County, New Mexico. The Solar Evaporation Facility is located in Sections 5 and 6, T24S, R29E and Section 32, T23N, R29E; the pipeline is located in Sections 6, 7, 8 and 17, T24S, R29E; and the brine well is located in Section 17, T24S, R29E.

Quantity, Quality, and Flow Characteristics of the Discharge

The regulated discharge consists of brine, discharged at a maximum rate of approximately 576,000 gallons per day (400 gpm) to a series of solar evaporation ponds. Solid phase salts settle out on the bottom of the pond when the salt deposits reach a thickness of approximately 12 inches. The brine will likely exceed water quality standards under the WQCC Regulations in 20.6.2.3103.B NMAC for chloride, sulfate and total dissolved solids (TDS). The concentration of chloride in the brine is estimated at approximately 330,000 mg/L.

Characteristics of Groundwater

The depth to ground water beneath an area east of the SSMF is approximately 30 feet below ground surface to near ground surface, and the TDS concentration is approximately 12,000 milligrams per liter (mg/l).

General

Southwest Salt's discharge plan includes the Discharge Plan submitted to NMED dated March 15, 2010, conceptual site plan dated September 29, 2010, and e-mails dated April 19, 2010 and October 11, 2010. The discharge shall be managed in accordance with the Discharge Plan as conditioned by this Discharge Permit.

Pursuant to 20.6.2.3109.E NMAC, NMED reserves the right to modify permit requirements in the event NMED determines that the requirements of 20.6.2 NMAC are being, or may be, violated or standards of 20.6.2.3103 NMAC are being, or may be, violated at a place of withdrawal of water for present or reasonably foreseeable future use due to a discharge regulated under this Discharge Permit. This may include a determination by NMED that operational practices approved under this Discharge Permit are not protective of ground and surface water quality, and that a modification is necessary to protect water quality or abate water pollution. Permit modification may include but is not limited to lining or relining impoundments, changing discharge locations, changing waste, process water and leachate management practices, expanding monitoring requirements and/or implementing abatement of water pollution.

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

II. FINDINGS

In issuing this Discharge Permit, NMED finds:

1. Southwest Salt is discharging effluent at the SSMF so that such effluent may move directly or indirectly into groundwater within the meaning of 20.6.2.3104 NMAC.
2. Southwest Salt is discharging effluent at the SSMF so that such effluent may move into groundwater of the State of New Mexico which has an existing concentration of 10,000 milligrams or less of total dissolved solids within the meaning of 20.6.2.3101.A NMAC.
3. The discharge from the SSMF is not subject to any of the exemptions of 20.6.2.3105 NMAC.
4. Portions of the SSMF are located at a place of withdrawal of water for present or reasonably foreseeable future use within the meaning of 20.6.2.3101A NMAC.

III. PERMIT CONDITIONS

Southwest Salt shall comply with the following conditions, which are enforceable by NMED.

OPERATIONS

1. Southwest Salt shall conduct the operational requirements set forth below in accordance with the WQCC Regulations at Sections 20.6.2.3106.C and 3107 NMAC to ensure compliance with 20.6.1 and 20.6.2 NMAC.

Discharge Authorization

2. Southwest Salt is authorized to discharge up to 576,000 gpd (400 gpm) of brine through a *Fasline* pipeline to a series of synthetically lined solar evaporation ponds for the purpose of generating solid salt through evaporation. [20.6.2.3109 NMAC]

Evaporation Ponds & Brine Pipeline

3. Southwest Salt shall submit engineering design plans and specifications for the SSMF. The plans shall include the processing plant, evaporation pond(s), distribution tank, interconnecting pipelines, and the pipeline connecting the brine well with the facility. The plans shall be submitted to NMED for approval at least 30 days prior to the beginning of construction. [20.6.2.3109 NMAC]
4. Within 60 days of completion, Southwest Salt shall submit as-built plans to NMED of the synthetically lined solar evaporation pond system and the brine pipeline. The plans must include all details concerning construction for the pond excavations, subgrade compaction,

liner installation, access roads and ramps, storage tanks and pads, pipelines and any other facilities constructed at the site. [20.6.2.3109 NMAC]

Evaporation Pond Operation

5. Southwest Salt shall operate the solar evaporation ponds consistent with the operational plan submitted in the March 15, 2010 Discharge Permit Application. [20.6.2.3109 NMAC]

Maintenance

6. Southwest Salt shall conduct the following maintenance activities during facility operation. [20.6.2.3109 NMAC]
 - A. A minimum of two feet of freeboard shall be maintained in the evaporation ponds at all times.
 - B. Approximately one foot of solid salt shall be maintained in the bottom of the evaporation ponds to protect the pond liners during salt harvesting.
 - C. The pipeline and brine well pump shall be inspected daily for leaks and other operational failures.
 - D. The evaporation ponds shall be inspected daily to ensure proper water levels are being maintained, all berms are intact, and the liners, where visible, are not damaged.

Storm Water Management

7. Southwest Salt shall manage onsite storm water as follows. [20.6.2.3109 NMAC]
 - A. All storm water that makes contact with salt products onsite shall be contained onsite in impoundments that prevent infiltration into the ground.
 - B. Storm water upgradient of the facility shall be diverted around the site via excavated channels and dikes in order to eliminate contact with any salt products.

Fencing

8. Southwest Salt shall maintain fencing around the facility perimeter to prohibit wildlife and livestock from entering the evaporation ponds and to maintain security at the site. [20.6.2.3109 NMAC]

MONITORING, REPORTING AND OTHER REQUIREMENTS

Monitoring Well Installation

9. Within 90 days of completion of facility construction, Southwest Salt shall install two monitoring wells hydrologically downgradient of the facility. The locations of the new wells shall be approved by NMED prior to installation. The wells shall be constructed according to *NMED Monitoring Well Construction and Abandonment Guidelines* (enclosed) or an alternate method approved by NMED. Construction and lithographic logs shall be submitted to NMED within 60 days of well completion. [20.6.2.3107 NMAC]

Monitoring Well Replacement

10. Southwest Salt shall provide NMED at least 30 days notification of the anticipated destruction or removal of any monitoring wells required under DP-1754. In the event of unintentional well destruction or damage requiring well abandonment, Southwest Salt shall notify NMED as soon as possible. The notification shall include a description of monitoring well abandonment procedures and propose a replacement well location for NMED approval. Monitoring well abandonment shall be performed in accordance with *NMED Monitoring Well Construction and Abandonment Guidelines* or alternate method approved by NMED. [20.6.2.3107 NMAC]

Monitoring Requirements

11. Southwest Salt shall conduct the following monitoring, reporting, and other requirements set forth below in Conditions 12 through 17. A summary of monitoring requirements is attached to this Permit as Table 1. [20.6.2.3107 NMAC].

Water Sampling

12. Ground Water Monitoring Wells – Southwest Salt shall monitor ground water quality as follows. [20.6.2.3107 NMAC]
 - A. Southwest Salt shall sample the two new monitoring wells, and any new monitoring wells required in future permitting actions, for the following parameters.
 - 1) The depth to the water table and the elevation above mean sea level (amsl) shall be measured to the nearest hundredth of a foot (0.01 ft), quarterly.
 - 2) Water samples shall be collected quarterly and analyzed for the parameters listed in Condition 15A.

Analytical results and depth to ground water measurements shall be reported as required in Condition 17 below.

13. Effluent Quality – Southwest Salt shall collect a sample of the brine effluent discharged to the solar evaporation system annually and analyze the sample for the parameters listed in Conditions 15B. Analytical results shall be reported as required in Condition 17 below. [20.6.2.3107 NMAC]
14. Discharge Volume – Southwest Salt shall measure the monthly volume of brine discharged to the solar evaporation system using a totalizing meter or other measuring device approved by NMED. Discharge volumes shall be reported as required in Condition 17 below. [20.6.2.3109 NMAC]

Analysis

15. Southwest Salt shall analyze samples of ground water and effluent for the parameters listed below. Samples of ground water from monitoring wells shall be analyzed for dissolved concentrations of the analytes listed below. Analyses of effluent shall exclude field parameters (15A) and shall be analyzed for dissolved and total concentrations of the analytes listed in Condition 15B below. Southwest Salt may request a reduction in the frequency of laboratory analysis of specific parameters after the first year of monitoring. [20.6.2.3107 NMAC]
 - A. Field and/or laboratory parameters: pH, temperature and specific conductance.
 - B. General chemistry parameters: calcium, magnesium, sodium, potassium, sulfate, chloride, and total dissolved solids.

Methodology

16. Unless otherwise approved in writing by NMED, Southwest Salt shall conduct sampling and analysis in accordance with the most recent editions of the following documents.
 - A. American Public Health Association, *Standard Methods for Examination of Water and Wastewater*.
 - B. U.S. Environmental Protection Agency, *Methods for Chemical Analysis of Water and Waste*.
 - C. U.S. Geological Survey, *Techniques for Water Resource 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*.

- F. Surface water monitoring must also be conducted according to test procedures approved under Title 40 CFR Part 136. [20.6.2.3107 NMAC]

Reporting

17. Southwest Salt shall submit the semi-annual reports (both paper and electronic copies) by the last day of January and July of each year. The reports shall include but are not limited to the information summarized below. [20.6.2.3107 NMAC]
- A. A summary of all activities related to the discharges during the preceding six months. Examples include general operations, operational failures, discharge volumes, changes in daily flow rates, maintenance, repairs, well installation and abandonment, storm water management, facility construction, water quality and water level trends, and precipitation patterns.
- B. A groundwater quality and water level table that includes a summary of quarterly water analyses and a map of the SSMF showing the location of all wells. The table shall be in paper and electronic formats (EXCEL spreadsheet) and include water quality data for each sampling location. Monitoring locations shall be in the first column and sampling dates in the second column. Subsequent columns shall contain the analytical results for each chemical parameter analyzed and water level measured during each sampling event (calendar quarter). Each monitoring event shall be shown in a separate row with a corresponding date. Tabulated electrical conductivity shall include the measured field values and corrected values to 25° Celsius. Values exceeding standards shall be bolded. Any parameter not analyzed for a particular site shall be shown as “NA”, any site not sampled shall be shown as “NS” with an associated reason, and any site not measured for water levels shall be shown as “NM” with an associated reason. Copies of signed laboratory analyses sheets shall be maintained at the site and made available to NMED staff upon request.
- C. Daily volumes of brine discharged from the brine pipeline to solar evaporation system.

CONTINGENCY PLANS

Groundwater and Surface Water Exceedences

18. In the event that monitoring indicates groundwater or surface water standards are exceeded, or the extent or magnitude of existing groundwater contamination is significantly increasing, Southwest Salt shall collect a confirmatory sample from the monitoring well(s) within 30 days of the completion of the initial analysis in order to confirm the initial sampling results. Within 30 days of the confirmation of groundwater or surface water contamination or significant increases in existing contamination, Southwest Salt shall submit to NMED for approval an abatement plan, which includes a site investigation to define the source, nature and extent of contamination; a proposed abatement option, and a schedule for its implementation. The site investigation and abatement option shall be consistent with the requirements and provisions of Sections 20.6.2.4101, 4103, 4106, 4107, 4108 and 4112

NMAC. An abatement plan required under this condition may be incorporated into the abatement plan. [20.6.2.3107.A (10) NMAC]

Operational Failures

19. In the event of a pipeline break, pump failure, liner failure, pond overflow or other system failure associated with any facility covered under DP-1754, all discharge water shall be contained, pumped and transferred to areas of the facility that impose minimal impacts to groundwater quality. Failed components shall be repaired or replaced as soon as possible and no later than 72 hours from the time of failure unless Southwest Salt obtains a written consent and a new timetable from NMED. [20.6.2.3107A (10) NMAC]

Spill Reporting

20. In the event of a discharge that is not authorized by this Discharge Permit, Southwest Salt shall initiate the notification and corrective actions as required in 20.6.2.1203 NMAC. Southwest Salt shall take immediate corrective action to contain and remove or mitigate the damage caused by the discharge. Within 24 hours of discovery of the discharge, Southwest Salt shall verbally notify the NMED and provide the information outlined in 20.6.2.1203.A.1 NMAC. Within seven days of discovering the discharge, Southwest shall submit a written report to NMED verifying the oral notification and providing any additional information or changes. Southwest Salt shall submit a corrective action report within 15 days after the discovery of the discharge. [20.6.2.1203 NMAC]

CLOSURE

21. Southwest Salt shall submit to NMED for approval a detailed closure plan that addresses specifically how each component of the facility will be closed. At a minimum, Southwest Salt shall perform the following actions at closure. [20.6.2.3107A(11) NMAC]
- A. All liquids in the evaporation ponds will be allowed to evaporate or properly disposed of in a facility approved by NMED.
 - B. All solids existing at the site including those removed from the evaporation ponds and processing plant and shall be disposed of in accordance with New Mexico Solid Waste Regulations.
 - C. The pond liners shall be removed and disposed of in accordance with New Mexico Solid Waste Regulations.
 - D. All berms shall be razed and all ponds shall be backfilled to form a positive grade.
 - E. All pipelines shall be drained to containment structures, which shall prohibit discharges to the ground. All pipelines shall be sectioned and removed from the site.
 - F. All power lines shall be decommissioned.

G. Any borrow areas shall be reclaimed.

22. Southwest Salt shall continue ground water monitoring as described in Condition 12 of this 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 exceeded, Southwest Salt shall implement the contingency plan described in Condition 18 of this permit. Following notification from NMED that post-closure monitoring may cease, Southwest Salt shall plug and abandon all monitoring wells in accordance with *NMED Guidelines for Monitoring Well Construction and Abandonment* (copy enclosed). When all post-closure requirements have been met, Southwest Salt may request to terminate the discharge permit. [20.6.2.3107A(11) NMAC]

FINANCIAL ASSURANCE

23. Southwest Salt shall maintain financial assurance in an amount sufficient to cover the cost of a third party to implement the closure plan described in Conditions 21 and 22 of this discharge permit. The financial assurance shall ensure that funds will be available to implement the closure plan if at any time after cessation of operation of the SSMF if Southwest Salt is unable, unwilling, or otherwise fails to implement closure of the facility. Financial assurance must be in place prior to initiation of operations approved in this Discharge Permit [20.6.2.3107A(11) NMAC]

24. Within 90 days of the effective date of this discharge permit; Southwest Salt shall submit to NMED for approval a cost estimate for closure of the SSMF. The cost estimate submittal shall include a line item cost for each facility to be closed as required in Conditions 21 and 22. The submittal shall include supporting documentation justifying the cost basis for each facility to be closed, and shall take into consideration the costs for work plan preparation, field work, sampling, field instrumentation, consultant fees, laboratory analyses, data evaluation, indirect costs, and final reports. [20.6.2.3107A(11) NMAC]

25. Within 90 days of the date of the effective date of this discharge permit; Southwest Salt shall submit to NMED for approval a draft of its proposed financial assurance instrument(s) that meets the requirements of Conditions 26 through 28. The financial assurance instrument(s) shall include 1) a letter of credit, bond or other such instrument and 2) a standby trust agreement to be used as a repository for forfeited financial assurance instruments, as necessary. [20.6.2.3107A(11) NMAC]

26. Within 30 days after NMED approval of the cost estimate and draft financial assurance instrument(s), Southwest Salt shall execute the financial assurance instrument(s). Southwest Salt shall provide NMED with an original signed and notarized copy of each of the financial assurance instrument(s). The financial assurance instrument(s) shall name NMED as the beneficiary. The instruments shall be maintained until the financial assurance is released in writing by NMED. [20.6.2.3107A(11) NMAC]

27. Within 30 days after NMED approval of the draft standby trust agreement, Southwest Salt shall execute the standby trust agreement. Southwest Salt shall provide NMED with an original signed and notarized copy of the standby trust agreement. The standby trust agreement shall name NMED as the beneficiary and shall be in a form provided by NMED. The standby trust shall be maintained until the financial assurance is released in writing by NMED. [20.6.2.3107A(11) NMAC]
28. The financial assurance, including any revised financial assurance, shall meet the following standard requirements:
- A. The financial assurance shall be executed in an amount equal to the NMED approved closure cost estimate. The closure cost estimate shall include direct costs associated with third party implementation of the closure plan, contingency costs and NMED oversight and administration costs, including indirect costs.
 - B. Except as provided herein, NMED shall be named as the sole beneficiary in the financial assurance instrument.
 - C. The financial assurance instruments shall remain in effect throughout the term of this discharge permit, including the post-closure period, and until released in writing by NMED. The financial assurance shall remain in place at all times, including lapses in discharge permit coverage, late discharge permit renewal or temporary shut down of facilities covered under this discharge permit.
 - C. The financial assurance shall include a method for adjustments due to inflation, new technologies, and NMED approved revisions to the closure plan based on continued investigations or other information.
 - D. No more than once every 12 months Southwest Salt may request that NMED review remaining closure measures, including alternative closure measures that NMED has approved. The request for closure review shall describe the closure measures completed and shall contain an updated cost estimate for remaining closure measures. If NMED approves the description of completed closure measures and the cost estimate for remaining closure measures, NMED will adjust the amount of financial assurance to reflect the revised cost estimate.
 - F. The financial assurance shall be evaluated, and if necessary, revised to comply with WQCC financial assurance regulations if and when such regulations are promulgated and become effective.
 - G. The financial assurance shall include a provision, which requires the financial assurance provider to provide at least 120 days written notice to NMED and Southwest Salt prior to cancellation or non-renewal of the financial assurance. Southwest Salt shall obtain an NMED- approved alternate financial assurance mechanism within 60 days of such notice. If Southwest Salt fails to obtain alternate financial assurance within 60 days, the current financial assurance shall become immediately payable to the standby trust fund.

- H. If NMED determines that implementation of the closure plan is required and that Southwest Salt is unable or unwilling or will otherwise fail to conduct or complete the closure requirements of this discharge permit, then NMED may proceed with forfeiture of all or part of the financial assurance. Prior to beginning a forfeiture proceeding, NMED will provide written notice, by certified mail return receipt requested, to Southwest Salt and to all financial assurance providers, if applicable, informing them of the determination to forfeit all or a portion of the financial assurance. The written notice will state the reasons for the forfeiture and the amount to be forfeited. The amount shall be based on the total cost of performing closure, including post-closure monitoring and maintenance, in accordance with this discharge permit and all applicable laws and regulations. NMED will also advise Southwest Salt and all financial assurance providers, if applicable, of the conditions under which forfeiture may be avoided. Such conditions may include, without limitation, an agreement by Southwest Salt, by a financial assurance provider, or by an NMED- approved third party to perform closure, including post-closure monitoring and maintenance, in accordance with this discharge permit and all applicable laws and regulations, and a demonstration that such person has the financial ability and technical qualifications to do so. All financial assurance forfeited shall become immediately payable to the standby trust fund or as otherwise provided in the approved instruments. Forfeited funds shall be used to complete performance of the closure plan. If the forfeited amount is insufficient, Southwest Salt shall be liable for the remaining costs. If the amount forfeited is more than necessary, the excess amount shall be refunded to the person from whom it was collected.
- I. All or part of the financial assurance shall be released or modified when NMED determines that the corresponding closure and post-closure measures covered by the financial assurance have been completed according to the closure plan requirements of this discharge permit. [20.6.2.3107A(11) NMAC]
29. Within 30 days of NMED approval of a revised closure plan or post-closure measures, or upon determination that existing financial assurance is inadequate, Southwest Salt shall submit to NMED for approval a revised closure cost estimate and financial assurance instruments. Within 30 days of NMED approval of the revised financial assurance instruments, Southwest Salt shall execute the revised financial assurance instruments and submit signed, notarized copies to NMED. [20.6.2.3107A(11) NMAC]

GENERAL TERMS AND CONDITIONS

30. Southwest Salt shall comply with the following general conditions, which shall be enforceable by NMED.

Record Keeping

31. Southwest Salt shall maintain at its facility a written record of all data and information on monitoring of groundwater, surface water, seepage, and meteorological conditions pursuant to this Discharge Permit including the following information. [20.6.2.3107.A NMAC]

- a. The date, exact time, and exact location of each sample collection or field measurement;
 - b. The name and job title of the person 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 the raw data; and,
 - g. A description of the quality assurance and quality control procedures used.
32. Such data and information as described in Condition 31, shall also be maintained on all split and duplicate samples, spike and blank samples, and repeat samples. [20.6.2.3107.A NMAC]
33. Southwest Salt shall maintain a written record of any spills, seeps or leaks of effluent, or process fluids not authorized by this Discharge Permit. [20.6.2.3107.A NMAC]
34. Southwest Salt shall maintain a written record of the operation, maintenance and repair of all facilities/equipment used to treat, store, or dispose of brine and associated process water; 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 conveyance of process waters throughout this permit area. [20.6.2.3107.A NMAC]
35. Notwithstanding any company record retention policy to the contrary, until such time as NMED determines that all closure measures have been completed in accordance with the requirements of this Discharge Permit, Southwest Salt shall retain copies of all data, records, reports, and other documents generated pursuant to this Discharge Permit. Such record retention period may be increased by the NMED at any time upon written notice to Southwest Salt. [20.6.2.3107.A NMAC]
36. All such data, records, reports, and other documents generated pursuant to this Discharge Permit, shall be provided to the NMED upon request. [20.6.2.3107.A NMAC]

Inspection and Entry

37. Southwest Salt shall allow the Secretary or an authorized representative of NMED, upon the presentation of credentials to:

- a. Enter any property or premises owned or controlled by Southwest Salt at reasonable times upon Southwest Salt's premises or at another location where records are kept under the conditions of this Discharge Permit or any Federal or WQCC regulation.
 - b. Inspect and copy, at reasonable times, records required to be kept under the conditions of this Discharge Permit or pursuant to State or Federal water quality regulations.
 - c. Inspect, at reasonable times, any facility, equipment (including monitoring and control equipment for treatment works), practices or operations regulated or required under this Discharge Permit or under any Federal or WQCC regulations.
 - d. Sample or monitor at reasonable times any effluent, water contaminant, or receiving water at any location before or after the discharge for the purpose of assuring compliance with this Discharge Permit or as otherwise authorized by the New Mexico Water Quality Act. [20.6.2.3107.D NMAC] [74-6-9.B and E WQA]
38. Nothing in this Discharge Permit shall be construed as limiting in any way the inspection and entry authority of the NMED under the WQA, the WQCC Regulations, or any other applicable law or regulation. [20.6.2.3107 NMAC]

Duty to Provide Information

39. Within a reasonable time after a request from the NMED, which time may be specified by the NMED, Southwest Salt shall provide the NMED with any relevant information to determine whether cause exists for modifying, terminating, or renewing this Discharge Permit, or to determine whether Southwest Salt is in compliance with this Discharge Permit. [20.6.2.3107.D NMAC] [74-6-9.B and E WQA]
40. Nothing in this Discharge Permit shall be construed as limiting in any way the information gathering authority of the NMED under the WQA, the WQCC Regulations, or any other applicable law or regulation. [20.6.2.3107.D NMAC] [74-6-9.B and E WQA]

Spills, Leaks and Other Unauthorized Discharges

41. This Discharge Permit authorizes only those discharges specified herein. Any discharge not authorized by this Discharge Permit or any other Southwest Salt Discharge Permit is a violation of the WQCC Regulations at 20.6.2.3104 NMAC. Southwest Salt must report any such discharge to the NMED, and it must take corrective action to contain and remove or mitigate the damage caused by the discharge in accordance with Section 2.6.2.1203 NMAC and, if applicable, Condition 18. [20.6.2.1203 NMAC]

Modifications and Amendments

42. Southwest Salt shall notify the NMED of any changes to its leachate or process water collection or disposal system, including any changes in the brine or process water flow rate

or the volume of brine or process water storage, or of any other changes to its mining operations or processes that would result in any significant change in the discharge of water contaminants. Southwest Salt shall obtain NMED approval, as a modification to this Discharge Permit pursuant to Section 20.6.2.3109.E, F, or G NMAC, prior to any increase in the quantity brine or process water discharged, or any increase in the concentration of water contaminants discharged, above those levels approved in this Discharge Permit. [20.6.2.3107 NMAC]

Enforcement

43. Any violation of the requirements and conditions of this Discharge Permit, including any failure or refusal to allow the NMED to enter and inspect records or facilities, or any refusal or failure to provide the NMED with records or information, may subject Southwest Salt to an 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, suspending 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 the 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. For certain violations specified in the WQA § 74-6-10.2, criminal penalties may also apply.

Compliance with Other Laws

44. Nothing in this Discharge Permit shall be construed in any way as relieving Southwest Salt of its obligation to comply with all applicable Federal, State, and local laws, regulations, permits, or orders. [74-5-5.K WQA]

Liability

45. The approval of this Discharge Permit does not relieve Southwest Salt of liability should the operation result in actual pollution of surface or groundwater which may be actionable under other laws and/or regulations. [20.6.2.1220 NMAC]

Right to Appeal

46. Southwest Salt may file a petition for a hearing before the WQCC on this Discharge Permit. Such petition must be made in writing to the WQCC within thirty (30) days after Southwest Salt receives this Discharge Permit. Unless a timely petition for a hearing is made, the decision of NMED shall be final. [74-6-5.N WQA]

Transfer

47. Prior to any transfer of ownership, control, or possession of the permitted facility or any portion thereof, Southwest Salt shall notify the proposed transferee in writing of the existence of this Discharge Permit and include a copy of this Permit with the notice. Southwest Salt shall deliver or send by certified mail to the NMED a copy of the notification and proof that such notification has been received by the proposed transferee. [20.6.2.3111 NMAC]

Term

48. The effective date of this Discharge Permit is the date it is issued and signed by the Chief of the Groundwater Quality Bureau. The term of this Discharge Permit is five (5) years, and the Permit will automatically expire five (5) years from the date it is issued. To renew this Discharge Permit, Southwest Salt must submit an application for renewal at least 120 days before that date. [74-6-5.H and 20.6.2.3109.H NMAC]

Issued this ____ day of _____, 2011

William C. Olson, Chief
Groundwater Quality Bureau
New Mexico Environment Department

Under authority delegated by the Secretary of the New Mexico Environment Department

**SOUTHWEST SALT MALAGA FACILITY, DP-1754
 MONITORING SUMMARY**

Monitoring Reports are due by: 31-JAN AND 31-JUL

Table 1: Monitoring Summary

Annual Sampling Frequency	Annual Reporting Frequency	Number of Sites	Sampling Description
4	2	two new wells	Water levels, pH, temperature & specific conductance quarterly.
4	2	two new wells	Ca, Mg, Na, K, SO ₄ , Cl, TDS & ClO ₄ quarterly.
1	1	1	Ca, Mg, Na, K, SO ₄ , Cl, TDS in brine effluent annually.
12	1	1	Discharge volumes to evaporation ponds.
	2		Activities Report.

Table 2: Ground Water Monitoring Schedule

Area	Well Number	Sampling				Notes	
		Type	Q1	Q2	Q3		Q4
	New Well 1	mw	ABW	ABW	ABW	ABW	
	New Well 2	mw	ABW	ABW	ABW	ABW	

Explanation to Abbreviations and Symbols

<p><u>Type:</u> mw = monitoring well ew = extraction well sw = surface water spg = spring sp = seep</p>	<p><u>Sampling Quarter:</u> Q1 = Jan-Mar Q2 = Apr-Jun Q3 = Jul-Sep Q4 = Oct-Dec</p>
<p><u>Sampling Analytical Suites:</u> A = Field parameters: Temp, pH, specific conductance B = General chemistry parameters: Ca, Mg, Na, K, SO₄, Cl, TDS W = Depth to water measurement to the nearest 0.01 foot.</p>	