

GROUND WATER DISCHARGE PERMIT RENEWAL Cunningham Station, DP-1429

I. INTRODUCTION

The New Mexico Environment Department (NMED) issues this Discharge Permit Renewal (Discharge Permit), DP-1429, to Southwestern Public Service Company (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 Cunningham Station Power Plant (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:

The power plant discharges up to 3,500,000 gallons per day of industrial wastewater to a synthetically lined wastewater lagoon for storage. Wastewater is land applied through a stationary sprinkler system to 84 acres of pecans and through two center-pivot sprinkler systems to a minimum of 256 and a maximum of 302 acres of cropland under cultivation or native vegetation. The discharge contains water contaminants or toxic pollutants which may be elevated above the standards of 20.6.2.3103 NMAC. The facility is located at 12.5 miles west of Hobbs, in Sections 16, 21, and 28, T18S, R36E, Lea County. Ground water most likely to be affected is at a depth of approximately 65 feet and has a total dissolved solids concentration of approximately 350 milligrams per liter.

The original Discharge Permit was issued on September 10, 2003 and subsequently modified on June 11, 2007. The permittee's application consists of the materials submitted by Gale Henslee dated July 10, 2008. The permittee's Discharge Plan consists of this application and previously submitted materials as applicable. 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 lagoons; expanding land application areas; changing waste management practices; expanding monitoring requirements; installing an advanced treatment system; and/or implementing abatement of water pollution.

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

The following abbreviations may be used in this Discharge Permit:

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

II. FINDINGS

In issuing this Discharge Permit, NMED finds:

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

III. CONDITIONS

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

OPERATIONAL PLAN

#	Terms and Conditions
1.	The permittee shall implement the following operational plan to ensure compliance with Title 20, Chapter 6, Parts 1 and 2 NMAC. [20.6.2.3106.C NMAC, 20.6.2.3107 NMAC]
2.	The permittee shall operate in a manner such that standards and requirements of Sections 20.6.2.3101 and 20.6.2.3103 NMAC are not violated. [20.6.2.3101 NMAC, 20.6.2.3103 NMAC]
3.	The permittee is authorized to discharge up to 3,500,000 gallons per day of industrial wastewater to a synthetically lined wastewater lagoon for storage. Wastewater is land applied through a stationary sprinkler system to 84 acres of pecans and through two center-pivot sprinkler systems to a minimum of 256 and a maximum of 302 acres of cropland under cultivation or native vegetation. [20.6.2.3104 NMAC, 20.6.2.3106 NMAC]
4.	<p>The lagoon liner shall be maintained in such a manner as to avoid conditions which could affect the structural integrity of the lagoon and/or lagoon liner. Such conditions include, but are not limited to:</p> <ul style="list-style-type: none"> • Erosion damage; • Animal activity/damage; • The presence of vegetation, such as; aquatic plants, weeds, woody shrubs or trees growing within five feet of the lagoon edge or within the lagoon itself; • Evidence of seepage; • Evidence of berm subsidence; and/or • The presence of large pieces or large quantities of debris in the lagoon. <p>The permittee shall visually inspect the lagoon and surrounding berms on a monthly basis to ensure proper maintenance. Vegetation growing around the lagoons shall be routinely controlled by mechanical removal in a manner that is protective of the lagoon liner. Any evidence of damage to the lagoon berm or liner shall be reported to NMED immediately upon discovery. [20.6.2.3107 NMAC]</p>
5.	The permittee shall maintain a minimum of two feet of freeboard between the liquid level in the lagoon and the top elevation of the lagoon liner at all times. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
6.	Prior to discharging to the land application distribution system, the permittee shall install a backflow prevention method to protect all wells connected to the land application distribution system from contamination by wastewater. Backflow prevention shall be achieved by installation of a physical air gap between the discharge pipe and the liquid surface at least twice the diameter of the discharge pipe, a reduced pressure principle valve assembly or other method approved by NMED. With the exception of a physical air gap, backflow prevention devices shall be tested by a certified backflow assembly tester at the time of installation, repair or relocation and at least on an annual basis thereafter and shall be maintained functional at all times. Inspection and maintenance records for the backflow prevention device shall be kept on-site and available for NMED review upon request. [20.6.2.3109 NMAC]
7.	The permittee shall only add the following chemicals to the cooling-tower system water: sulfuric acid, chlorine, and calcium hypochlorite. If any chemicals or additives beside those listed are to be used, prior notification of, and approval from, NMED is required. [20.6.2.3107 NMAC]

8.	Xcel Energy may perform boiler cleaning operations and discharge the used cleaning solution through the synthetically lined wastewater lagoon to the land application areas approved in Discharge Permit, DP-1429, as described in submittals dated February 12, 2004 and February 19, 2004. Only the listed chemicals in the quantities described in the submittals may be used in the boiler cleaning operations. The use of unapproved chemicals, or greater quantities of approved chemicals, shall require advance approval by NMED. [20.6.2.3109 NMAC]
9.	The permittee shall not irrigate in excess of the annual evapotranspiration requirement for the calendar year as calculated using the CROPWAT computer model. The permittee shall not exceed the cumulative monthly evapotranspiration requirement for the calendar year by more than three acre-inches/acre at any time during the year and must meet the annual evapotranspiration limit by the end of the calendar year. A comparison of actual monthly rainfall amounts plus actual monthly irrigation amounts with the CROPWAT calculated reference crop evapotranspiration amounts shall be submitted in the quarterly monitoring reports. [20.6.2.3109 NMAC]

MONITORING, REPORTING, AND OTHER REQUIREMENTS

#	Terms and Conditions
10.	The permittee shall conduct the following monitoring, reporting, and other requirements listed below. [20.6.2.3107 NMAC]
11.	<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; and 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>
12.	<p>The permittee shall submit semi-annual monitoring reports to NMED for the most recently completed semi-annual period by the 1st of May and November each year.</p> <p>Semi-annual 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; • July 1st through September 30th (third quarter) – due by November 1st; and <p>Monitoring requirements detailed in this Discharge Permit are summarized on the sheet titled <i>Summary of Required Actions, Monitoring and Reporting</i>. [20.6.2.3107 NMAC]</p>

<p>13.</p>	<p>The permittee shall measure, using totalizing flow meters, the monthly volumes of wastewater discharged:</p> <ul style="list-style-type: none"> • To the synthetically lined wastewater lagoon; • From the synthetically lined wastewater lagoon; • To the pecan orchard; • To the center pivot #1; • To the center pivot #2; and • From the supplemental water well. <p>The monthly meter readings and monthly discharge volumes shall be submitted to NMED in the semi-annual monitoring reports. The flow meter shall be calibrated to within +/- 10% of actual flow and kept operational at all times. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]</p>
<p>14.</p>	<p>The permittee shall perform semi-annual ground water sampling in 12 monitoring wells (CU-1 through CU-12) and analyze the samples for NO₃-N, TKN, Cl, TDS, and SO₄. The permittee shall sample:</p> <ul style="list-style-type: none"> • CU-1, intended to be located hydrologically upgradient of the facility; • CU-2, intended to be located hydrologically downgradient of Squires Lake; • CU-3, intended to be located hydrologically downgradient of the pecan orchard and south center-pivot land application areas; • CU-4, intended to be located hydrologically downgradient of the old cooling tower blowdown pond; • CU-5, intended to be located hydrologically downgradient of the pecan orchard and south center-pivot land application areas; and deep (screen at 130-140 feet); • CU-6, intended to be located to characterize extent of contamination plume; • CU-7, intended to be located to characterize extent of contamination plume; • CU-8, intended to be located to characterize extent of contamination plume; • CU-9, intended to be located to characterize extent of contamination plume; • CU-10, intended to be located to characterize extent of contamination plume; • CU-11, intended to be located to characterize extent of contamination plume; and • CU-12, intended to be located hydrologically downgradient of north center-pivot land application area. <p>Ground water sample collection, preservation, transport and analysis shall be performed according to the following procedure:</p> <ol style="list-style-type: none"> a) measure the depth-to-ground water from the top of well casing to the nearest hundredth of a foot; b) purge a minimum of three well volumes of water from the well prior to sample collection; c) obtain samples from the well for analysis; d) properly prepare, preserve and transport samples; and e) analyze samples in accordance with the methods authorized in this Discharge Permit. <p>Depth-to-water measurements, analytical results, including the laboratory QA/QC summary</p>

	report, and a facility layout map showing the location and number of each well shall be submitted to NMED in the semi-annual monitoring reports. [20.6.2.3107 NMAC]
15.	The permittee shall develop a ground water elevation contour map on a semi-annual basis using the monitoring well survey data and semi-annual depth-to-water measurements required by this Discharge Permit. The ground water elevation contour map shall depict the ground water flow direction based on the ground water elevation contours. The data and ground water elevation contour maps shall be submitted to NMED in the semi-annual monitoring reports. [20.6.2.3107 NMAC]
16.	Once prior to the expiration date of this Discharge Permit, NMED shall have the option to require the permittee to temporarily remove the dedicated pump from each monitoring well, if equipped, to provide access for a complete well inspection by NMED personnel. NMED shall establish the inspection date and provide at least 60 days notice to the permittee by certified mail. Dedicated pumps shall be removed at least 48 hours prior to NMED inspection to allow adequate settling time for sediment agitated from pump removal. [20.6.2.3107 NMAC]
17.	The permittee shall sample wastewater from the concrete sump for NO ₃ -N, TDS, Cl, and SO ₄ on a semi-annual basis. Analytical results shall be submitted to NMED in the semi-annual monitoring reports. [20.6.2.3107 NMAC]
18.	The permittee shall collect one surface soil sample and one sub-surface soil sample from each field in the land application area on an annual basis. Each surface sample shall consist of a single composite of 15 soil cores collected from a depth of 0 to 12 inches. Each sub-surface soil sample shall consist of a single composite of six soil cores collected from a depth of 24 to 36 inches. Surface and sub-surface samples shall be analyzed for pH, electrical conductivity, and NO ₃ -N. Soil NO ₃ -N shall be analyzed by a 2 molar KCl extract, as described in the latest edition of <i>Methods of Soil Analysis</i> , American Society of Agronomy. The analytical results and a map showing the fields and sampling locations shall be submitted to NMED in the monitoring report due by November 1. [20.6.2.3107 NMAC]

CONTINGENCY PLAN

#	Terms and Conditions
19.	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]
20.	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

	<p>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>
21.	<p>In the event NMED or the permittee identifies any other failures of the Discharge Permit 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>
22.	<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>
23.	<p>In the event that ground water flow information obtained pursuant to this Discharge Permit indicates that a monitoring well(s) was not installed hydrologically downgradient of the intended discharge location(s), the permittee shall install a replacement well(s) within 90 days of notification from NMED. The 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. [20.6.2.3107 NMAC]</p>
24.	<p>In the event that a minimum of two feet of freeboard cannot be maintained in the lagoon at all times, the permittee shall submit a corrective action plan for NMED approval within 30 days of the date when the two feet of freeboard limit was initially exceeded. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]</p>
25.	<p>In the event that inspection findings reveal significant damage likely to affect the ability of the lined lagoon to contain contaminants, the permittee shall submit a corrective action plan for the repair or replacement of the lagoon liners to NMED for approval within 30 days of</p>

	discovery by the permittee or following notification from NMED that significant liner damage is evident. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
26.	If the spill or release is the result of a pipeline break, pump failure, or other major system failure at the facility, failed components shall be repaired or replaced as soon as possible and no later than 48 hours from the time of failure. If the failure cannot be repaired within 48 hours, then the permittee shall submit justification for the repair delay and a schedule of repair no later than 48 hours from the time of failure or on the next business day after a weekend. [20.6.2.3107.A.10 NMAC]

CLOSURE PLAN

#	Terms and Conditions
27.	<p>Upon closure of the facility, the permittee shall perform the following closure measures:</p> <ul style="list-style-type: none"> a) Submit a closure plan and a schedule for its implementation for NMED approval at least 90 days prior to cessation of operation. b) Continue ground water monitoring as required by this Discharge Permit for two years after closure to confirm the absence of ground water contamination. If monitoring results show that the ground water standards in Section 20.6.2.3103 NMAC are being violated, the permittee shall implement the contingency plan required by this Discharge Permit. c) Following notification from NMED that post-closure monitoring may cease, the permittee shall plug and abandon the monitoring well(s) in accordance with the attachment titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.0, July 2008. <p>When all post-closure requirements have been met, the permittee may request to terminate the Discharge Permit. [20.6.2.3107.A(11) NMAC]</p>

GENERAL TERMS AND CONDITIONS

#	Terms and Conditions
28.	<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>

29.	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]
30.	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. [20.6.2.3107.A NMAC]
31.	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. [20.6.2.3107.A NMAC]
32.	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, measurement, report or application. This period may be extended by request of the Secretary at any time. [20.6.2.3107.A NMAC]
33.	INSPECTION and ENTRY - The permittee shall allow the Secretary or an authorized representative, upon the presentation of credentials, to: <ul style="list-style-type: none"> a) 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. b) 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. c) 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. d) Sample or monitor, at reasonable times for the purpose of assuring compliance with this Discharge Permit or as otherwise authorized by the WQA, any effluent, water contaminant, or receiving water at any location before or after discharge. [20.6.2.3107.D NMAC, 74-6-9(B) & (E) WQA]
34.	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. [20.6.2.3107 NMAC, 74-6-9(B) & (E) WQA]
35.	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. [20.6.2.3107.D NMAC, 74-6-9(B) & (E) WQA]

36.	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]
37.	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]
38.	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 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]
39.	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]
40.	CRIMINAL PENALTIES – Any person who knowingly violates or knowingly causes or allows another person to: <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. [74-6-10.2(A-F) WQA]

41.	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]
42.	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]
43.	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]
44.	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, 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]
45.	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: effective date
 EXPIRATION DATE: expiration date

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