



REGION 6  
1445 ROSS AVENUE  
DALLAS, TEXAS 75202-2733

NPDES Permit No NM0029505

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**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et. seq; the "Act"),

Westmoreland San Juan Mining LLC  
P.O. Box 561  
Waterflow, NM 87421

is authorized to discharge from a facility located 15 miles north of Farmington, New Mexico, in, San Juan County, New Mexico to,

an unnamed intermittent stream in Waterbody Segment 20.6.4.98 NMAC from Outfall locations listed below,

in accordance with this cover page and the effluent limitations, monitoring requirements, and other conditions set forth in Part I, Part II, and Part III hereof.

This permit supersedes and replaces NPDES Permit No. NM0029505 issued June 26, 2009.

This permit shall become effective on November 1, 2014

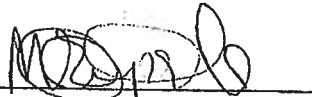
This permit and the authorization to discharge shall expire at midnight, October 31, 2019

Issued on September 10, 2014

Prepared by



*for*  
William K. Honker, P.E.  
Director  
Water Quality Protection Division (6WQ)



Maria E. Okpala  
Environmental Engineer  
Permits & Technical Section (6WQ-PP)

**NPDES PERMIT NO. NM0029505  
RESPONSE TO COMMENTS**

**RECEIVED ON THE SUBJECT DRAFT  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
PERMIT IN ACCORDANCE WITH REGULATIONS LISTED AT 40CFR124.17**

**APPLICANT:** San Juan Coal Company  
La Plata Mine  
300 West Arrington, Suite 101  
Farmington, NM 87401

**ISSUING OFFICE:** U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

**PREPARED BY:** Maria Okpala  
Environmental Engineer  
Permits Section (6WQ-PP)  
NPDES Permits Branch  
Water Quality Protection Division  
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**PERMIT ACTION:** Final permit decision and response to comments received on the proposed NPDES permit publicly noticed on June 28, 2014.

**DATE PREPARED:** August 29, 2014

**Introduction.** For brevity, Region 6 used acronyms and abbreviated terminology in this response to comments document whenever possible. The following acronyms were used frequently in this document: Act (Clean Water Act), BDD (Buckman Direct Diversion), (Environmental Protection Agency), LPM (La Plata Mine), NPDES (National Pollutant Discharge Elimination System), NMAC (New Mexico Administrative Code), NMED (New Mexico Environment Department), SJCC (San Juan Coal Company), SWQB (Surface Water Quality Bureau), and NMWQS (New Mexico Water Quality Standards).

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of August 29, 2014.

### **A CHANGE FROM DRAFT PERMIT**

EPA made the following change to the draft NPDES permit publicly noticed on June 28, 2014:

1. pH monitoring requirements on Outfalls 003-006, 002, 009-010, 012, 015-016, 018-023, 026 - 032 and Outfalls A through P, with the exception of Outfall 028 have been removed from the final permit.
2. The letter "W" has been added to the longitude value for Outfall 026 in the permit Outfall table of the final permit.
3. The description of the sampling locations for all Outfalls, with the exception of Outfall 028 has been re-written for clarity.
4. The languages under the "Compliance Schedule" and the "No Discharge Reporting" have been modified to specifically reference Outfall 028."
5. EPA has changed "sediment Control plan" to "Sediment Control Plan" under "Draft Permit Part II, Section A.2 SEDIMENT CONTROL PLAN (Page 1 of Part II)" of the final permit.
6. EPA has included the phrase "*set forth in Part I, Section A*" in Part II, Section C of the final permit.

### **STATE CERTIFICATION**

In a letter from James Hogan, Bureau Chief, SWQB, to William K. Honker, P.E., Director, Water Quality Protection Division (EPA) dated August 29, 2014, the NMED certified that the discharge will comply with the applicable provisions of Section 208(e), 301, 301, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law.

The NMED stated that in order to meet the requirements of State law, including water quality standards and appropriate basin plan as may be amended by the water quality management plan, each of the conditions cited in the draft permit and the State certification shall not be made less stringent.

The State also stated that it reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State's water quality standards and water quality management plan.

## CONDITIONS OF CERTIFICATION

There are no conditions of certification.

## COMMENTS THAT ARE NOT CONDITIONS OF CERTIFICATION

There are no comments that are not conditions of certifications.

## COMMENT FROM SAN JUAN COAL COMPANY (SJCC)

**Comment No. 1: Permit Outfall Table (Page 2 of Part I) – Outfall 026.** The permittee stated that the Longitude value is missing the letter “W” and should read 108°7’22.572”W.

**Response No. 1:** The letter “W” has been added to the longitude value in the final permit.

**Comment No. 2: Draft Permit Part I, Section A.3 (Page 5 of Part I) – LIMITATIONS AND MONITORING REQUIREMENTS for Outfalls 003-006, 002, 009-010, 012, 015-016, 018-023, 026 – 032 and Outfalls A through P.** The permittee commented that the draft Permit language proposed monitoring pH at all permitted outfalls during discharges. SJCC requested that the proposed condition to monitor pH at all permitted outfalls be removed from the draft permit for four (4) reasons. First, based on effluent data SJCC submitted, EPA determined in 2009 to delete the pH monitoring requirement from the permit and EPA has shown no reasonable basis to reinstate the pH monitoring requirement. Second, EPA’s statement of basis does not identify the proposed reimposition of pH monitoring as a change to the permit. Third, reimposition of a pH monitoring condition for outfalls in a fully reclaimed area is inconsistent with 40 C.F.R.434 Subpart H. Fourth, reimposing pH monitoring conditions for outfalls in a fully reclaimed area is impractical, unsafe, unduly burdensome and potentially harmful to the fully reclaimed mine site. SJCC emphasized that reimposing such a requirement will adversely impact the geomorphic reclamation that has been successfully implemented. Based on the above reasons, SJCC requests the removal of pH limitation range from the discharges from reclamation as intended in 40 C.F.R. § 434.82 and as is allowed under the NPDES Permit No. NM0029505 for LPM.

**Response No. 2:** EPA concurs with the permittee on the reclaimed and unstaffed nature of LPM, current permit conditions, historical water quality results, and soil suitability standards, the pH monitoring requirements on Outfalls 003-006, 002, 009-010, 012, 015-016, 018-023, 026 - 032 and Outfalls A through P with the exception of Outfall 028 have been removed from the final permit.

**Comment No. 3: SAMPLING LOCATIONS (Page 7 of Part I) –** The permittee commented that the sampling locations paragraph is unnecessary and should be removed. The permittee stated that the locations of the outfalls are already included elsewhere in the permit and the inclusion of this paragraph creates confusion relative to Draft Permit Sections 1.A.1 and 1.A.2.

**Response No. 3:** EPA disagrees with the permittee that the language on sampling locations should be removed, but has re-written the language for clarity. EPA notes that all other Outfalls have been deleted except for Outfall 028 and samples taken at Outfall 028 shall be at the discharge from the final treatment unit, prior to the receiving stream.

**Comment No. 4: Draft Permit Part I, Section B. SCHEDULE OF COMPLIANCE (Page 7 of Part I)** -The permittee requested modification of the language in Part I, Section B (Schedule of Compliance) to specifically reference Outfall 028.

**Response No. 4:** EPA concurs with the permittee and has modified the language in Part I, Section B (Schedule of Compliance) to specifically reference Outfall 028.

**Comment No. 5: Draft Permit Part I, Section B. NO DISCHARGE REPORTING (Page 8 of Part I)** - The permittee requested modification of the language in Part I, Section B (No Discharge Reporting) to specifically reference Outfall 028

**Response No. 5:** EPA concurs with the permittee and has modified the language in Part I, Section B (No Discharge Reporting) to specifically reference Outfall 028.

**Comment No. 6: Draft Permit Part I, Section C. MONITORING AND REPORTING (MINOR DISCHARGES) (Page 8 of Part I)** - The permittee requested modification of the language in Part I, Section C to read as follows (changes in bold italics):

*“Except for the reports required for Outfall 028 under Section B above, the permittee is required to submit all other regular quarterly reports as described above no later than the 28<sup>th</sup> day of the month following each reporting period.”*

**Response No. 6:** EPA disagrees with the permittee on the requested modification because the permittee is required to submit all regular quarterly reports including reports for Outfall 028.

**Comment No. 7: Draft Permit Part II, Section A.2 SEDIMENT CONTROL PLAN (Page 1 of Part II)** – The permittee requested modification of the language in Part II, Section A, Subpart (D) to read as follows (changes in italics):

*“(D) The operator must submit an annual Sediment Control Report every 12 months from the approval of the sediment Control plan.”*

**Response No. 7:** EPA has made the requested changes in the final permit.

**Comment No. 8: Draft Permit Part II, Section C. 24-HOUR ORAL REPORTING: DAILY MAXIMUM LIMITATION VIOLATIONS (Page 2 of Part II)** - The permittee requested modification of the language in Part II, Section C to read as follows (Changes in bold italics):

*“Under the provisions of Part III.D.7.b. (3) of this permit, violations of daily maximum limitations set forth in Part I, Section A for the following ....”*

**Response No. 8:** EPA has made the requested changes in the final permit.

## PERMIT OUTFALL TABLE

Outfalls	Latitude	Longitude	Receiving Water
003	36°59'21.563"	108°8'13.257"W	La Plata River
004	36°59'22.001"	108°8'15.863"W	La Plata River
005	36°59'36.597"	108°7'23.443"W	La Plata River
006	36°58'33.398"	108°9'43.997"W	La Plata River
012	36°58'25.620"	108°9'38.902"W	La Plata River
015	36°58'51.649"	108°10'45.338"W	La Plata River
016	36°59'5.556"	108°10'57.047"W	La Plata River
018	36°59'16.475"	108°10'33.078"W	La Plata River
019	36°58'40.658"	108° 9'28.277"W	La Plata River
020	36°58'45.650"	108° 8'47.398"W	La Plata River
021	36°58'59.567"	108° 8'7.206"W	La Plata River
022	36°59'6.159"	108° 7'49.621"W	La Plata River
023	36°59'12.373"	108° 7'50.035"W	La Plata River
026	36°59'35.364"	108° 7'22.572"W	La Plata River
027	36°59'29.701"	108° 7'27.480"W	La Plata River
028	36°59'16.994"	108° 7'48.777"W	La Plata River
029	36°59'14.435"	108° 7'50.956"W	La Plata River
030	36°59'33.990"	108° 8'19.309"W	La Plata River
031	36°59'27.484"	108° 8'17.103"W	La Plata River
032	36°58'59.074"	108° 8'1.737"W	La Plata River
A	36°59'7.384"	108° 10'48.290"W	La Plata River
B	36°58'34.100"	108° 9'51.643"W	La Plata River
C	36°59'14.532"	108° 8'4.797"W	La Plata River
D	36°59'3.538"	108° 8'22.027"W	La Plata River
E	36°59'4.520"	108° 8'6.783"W	La Plata River
F	36°59'22.310"	108° 7'43.208"W	La Plata River
G	36°59'28.220"	108° 7'36.560"W	La Plata River
H	36°59'33.970"	108° 7'28.911"W	La Plata River
I	36°59'11.073"	108° 8'4.290"W	La Plata River
J	36°59'10.711"	108° 8'2.491"W	La Plata River
K	36°59'16.185"	108° 8'7.657"W	La Plata River
M	36°59'44.398"	108° 8'19.134"W	La Plata River
N	36°59'16.193"	108° 7'49.543"W	La Plata River
O	36°59'15.310"	108° 7'50.153"W	La Plata River
P	36°59'13.583"	108° 7'49.825"W	La Plata River

PART I – REQUIREMENTS FOR NPDES PERMITS

SECTION A. LIMITATIONS AND MONITORING REQUIREMENTS

1. INTERIM EFFLUENT LIMITS – OUTFALL 028

During the period beginning on the effective date of the permit and lasting 3 years from the permit effective date (unless otherwise noted), the permittee is authorized to discharge mine drainage due to precipitation events from reclamation areas to an unnamed intermittent stream in Waterbody Segment 20.6.4.98. Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Standard Units			
POLLUTANT	MINIMUM	MAXIMUM	MONITORING FREQUENCY	SAMPLE TYPE
pH	6.6	9.0	1/Month(*1)	Grab

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	lbs/day, unless noted		mg/l, unless noted			
POLLUTANT	30-DAY AVG	DAILY MAX	30-DAY AVG	DAILY MAX	SAMPLE FREQUENCY	SAMPLE TYPE
Flow	Report MGD	Report MGD	N/A	N/A	1/Month(*1)	Estimate (*2)
Total Mercury	N/A	N/A	Report	Report	1/Month(*1)	Grab
Total Recoverable Selenium	N/A	N/A	Report	Report	1/Month(*1)	Grab



2. FINAL EFFLUENT LIMITS - Outfall 028

During the period beginning three years from the effective date of the permit and lasting through the expiration date of the permit (unless otherwise noted), the permittee is authorized to discharge mine drainage due to precipitation events from reclamation areas to an unnamed intermittent stream in Waterbody Segment 20.6.4.98. Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Standard Units			
POLLUTANT	MINIMUM	MAXIMUM	MONITORING FREQUENCY	SAMPLE TYPE
pH	6.6	9.0	1/Month(*1)	Grab

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	lbs/day, unless noted		mg/l, unless noted			
POLLUTANT	30-DAY AVG	DAILY MAX	30-DAY AVG	DAILY MAX	SAMPLE FREQUENCY	SAMPLE TYPE
Flow	Report MGD	Report MGD	N/A	N/A	1/Month(*1)	Estimate (*2)
Total Mercury	N/A	N/A	0.00077	0.00077	1/Month(*1)	Grab
Total Recoverable Selenium	N/A	N/A	0.005	0.005	1/Month(*1)	Grab

3. Outfalls 003-006, 002, 009-010, 012, 015-016, 018-023, 026 - 032 and Outfalls A through P

During the period beginning on the effective date of the permit and lasting through the expiration date of the permit (unless otherwise noted), the permittee is authorized to discharge mine drainage due to precipitation events from reclamation areas to an unnamed intermittent stream in Waterbody Segment 20.6.4.98. Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	lbs/day, unless noted		mg/l, unless noted		SAMPLE FREQUENCY	SAMPLE TYPE
POLLUTANT	30-DAY AVG	DAILY MAX	30-DAY AVG	DAILY MAX		
Flow	Report MGD	Report MGD	N/A	N/A	1/Month(*1)	Estimate (*2)
Reclamation Inspection	Report (*2)		Report (*3)		1/Quarter	Study

Footnotes:

- \*1 When discharging
- \*2 "Estimate" flow measurements shall be based on the best engineering judgment, but is not subject to the accuracy provisions established at Part III.C.6.
- \*3 The permittee shall conduct reclamation inspections within the drainage areas associated with the outfalls listed above in conjunction with vegetation and erosion studies no less than once per quarter. An inspection report for each associated outfall shall be submitted with the Discharge Monitoring Report (DMR) every quarter as described in Section B below. Each reclamation inspection report shall include, at a minimum, the following items:
  - (1) The personnel who conduct the inspections.
  - (2) Date(s) on which inspection was performed.
  - (3) A written summary of major observations, including observation of no deficiency.
  - (4) Actions that should be taken to correct noted deficiencies.
  - (5) Photo documentation of findings if necessary. And,
  - (6) The signature of delegated officer.

**SAMPLING LOCATION(S)**

Samples taken in compliance with the monitoring requirements specified above for Outfall 028, shall be taken at the discharge from the final treatment unit, prior to the receiving stream, unless otherwise specified.

**FLOATING SOLIDS, VISIBLE FOAM AND/OR OILS**

There shall be no discharge of floating solids or visible foam in other than trace amounts. There shall be no discharge of visible films of oil, globules of oil, grease or solids in or on the water, or coatings on stream banks.

**SECTION B. SCHEDULE OF COMPLIANCE – Outfall 028**

Unless otherwise earlier terminated, the permittee shall comply with the following schedule of activities for the attainment of state water quality standards-based final effluent limitations for Outfall 028 for **total mercury and total recoverable selenium**:

- a. Conduct a study and identify needed stabilization techniques (December 31, 2014).
- b. Install the BMPs identified by the Study (June 1, 2015).
- c. Install any additional controls, if necessary (July 31, 2017).
- d. Attain final effluent limitations for **total mercury and total recoverable selenium** no later than 3 years from the permit effective date.

The permittee shall submit quarterly progress reports, to both EPA and NMED Surface Water Quality Bureau, in accordance with the following schedule. The requirement to submit quarterly progress reports for **total mercury and total recoverable selenium** shall expire 3 years from the permit effective date. No later than 14-days after the date compliance with the **total mercury and total recoverable selenium** final limits have been met, the permittee shall submit a written final report both to EPA and the State Agency, stating that compliance has been completed. If at any time during the compliance periods the permittee determines that full compliance will not be met within the time allowed, a separate report shall be sent to both EPA and the State Agency stating the explanation for this delay and proposed remedial actions.

**PROGRESS REPORT DATES**

January 30  
April 30  
July 30  
October 30

The permittee should note that each date applies to the prior three month period.

Send progress and final reports to the following addresses:

EPA:

Compliance Assurance and  
Enforcement Division  
Water Enforcement Branch (6EN-W)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733

New Mexico:

Program Manager  
Surface Water Quality Bureau  
New Mexico Environment Department  
P.O. Box 5469  
1190 Saint Francis Drive  
Santa Fe, NM 87502-5469

## NO DISCHARGE REPORTING

If there is no discharge event at Outfall 028 during the sampling month, place an "X" in the NO DISCHARGE box located in the upper right corner of the preprinted Discharge Monitoring Report.

## SECTION C. MONITORING AND REPORTING (MINOR DISCHARGERS)

Monthly monitoring information shall be submitted as specified in Part III.D.4 of this permit.

Reporting periods shall end on the last day of the months March, June, September, and December.

The permittee is required to submit regular quarterly reports as described above no later than the 28<sup>th</sup> day of the month following each reporting period.

The permittee shall report all overflows with the Discharge Monitoring Report submittal. These reports shall be summarized and reported in tabular format. The summaries shall include: the date, time, duration, location, estimated volume, and cause of the overflow; observed environmental impacts from the overflow; actions taken to address the overflow; and ultimate discharge location if not contained (e.g., storm sewer system, ditch, tributary).

Any noncompliance which may endanger health or the environment shall be made to the EPA at the following e-mail address: R6\_NPDES\_Reporting@epa.gov, as soon as possible, but within 24-hours from the time the permittee becomes aware of the circumstance. This language supersedes that contained in Part III.D.7 of the Permit. Additionally, oral notification shall also be to the New Mexico Environment Department at (505) 827-0187 as soon as possible, but within 24 hours from the time the permittee becomes aware of the circumstance. A written report of overflows which endanger health or the environment shall be provided to EPA and the New Mexico Environment Department, within 5 days of the time the permittee becomes aware of the circumstance.

D. COPY OF REPORTS AND APPLICATION TO NMED

The permittee shall send a copy of discharge monitoring reports (DMR), all other reports required in the permit, as well as a copy of application for permit renewal to New Mexico Environment Department at the mailing address listed in Part III of the permit.

## PART II - OTHER REQUIREMENTS

## A. SEDIMENT CONTROL PLAN

(A) This subpart applies to drainage at Western alkaline coal mining operations from reclamation areas, brushing and grubbing areas, topsoil stockpiling areas, and regarded areas where the discharge, before any treatment, meets all the following requirements:

- (1) pH is equal to or greater than 6.0;
- (2) Dissolved iron concentration is less than 10 mg/L; and
- (3) Net alkalinity is greater than zero.

(a) The term *brushing and grubbing area* means the area where woody plant materials that would interfere with soil salvage operations have been removed or incorporated into the soil that is being salvaged.

(b) The term *regarded area* means the surface area of a coal mine that has been returned to required contour.

(c) The term *sediment* means undissolved organic and inorganic material transported or deposited by water.

(d) The term *sediment yield* means the sum of the soil losses from a surface minus deposition in macro-topographic depressions, at the toe of the hillslope, along field boundaries, or in terraces and channels sculpted into the hillslope.

(e) The term *topsoil stockpiling area* means the area outside the mine-out area where topsoil is temporarily stored for use in reclamation, including containment berms.

(f) The term *western mining operation* means a surface or underground coal mining operation located in the interior western United States, west of the 100<sup>th</sup> meridian west longitude, in an arid or semiarid environment with an average annual precipitation of 26.0 inches or less.

(B) Within three (3) months from the effective date of the permit, the operator permittee must update its site specific Sediment Control Plan, that is designed to prevent an increase in the average annual sediment yield from pre-mined, undisturbed conditions. The operator is not required to resubmit another copy of SCP, rather the permittee shall update and keep a copy on site and continue to comply with the requirements of its SCP for La Plata Mine. The Sediment Control Plan must identify best management practices (BMPs) and also must describe design specifications, construction specifications, maintenance schedules, criteria for inspection, as well as expected performance and longevity of the best management practices.

(C) Using watershed models, the operator must demonstrate that implementation of the Sediment Control Plan will result in average annual sediment yield that will not be greater than the sediment yield levels from pre-mined, undisturbed conditions. The operator must use the same watershed model that was, or will be used to acquire the SMCRA Permit.

(D) The operator must submit an annual Sediment Control Report every 12 months from the approval of the Sediment Control Plan. This report shall demonstrate that the facility has met

requirements set forth in above sub-sections (B) and (C). The permittee shall also send a copy of the annual report to the State of New Mexico Environment Department.

#### B. MINIMUM QUANTIFICATION LEVEL (MQL)

See list of MQL's at Appendix A of Part II below. For pollutants listed on Appendix A of Part II with MQL's, analyses must be performed to the listed MQL. If any individual analytical test result is less than the MQL listed, a value of zero (0) may be used for that pollutant result for the Discharge Monitoring Report (DMR) calculations and reporting requirements.

In addition, any additional pollutant sampling for purposes of this permit, including renewal applications or any other reporting, shall be tested to the MQL shown on the attached Appendix A of Part II. Results of analyses that are less than the listed MQL may be reported as "non detect" (ND).

The permittee may develop an effluent specific method detection limit (MDL) in accordance with Appendix B to 40 CFR §136. For any pollutant for which the permittee determines an effluent specific MDL, the permittee shall send to the EPA Region 6 NPDES Permits Branch (6WQ-P) a report containing QA/QC documentation, analytical results, and calculations necessary to demonstrate that the effluent specific MDL was correctly calculated. An effluent specific MQL shall be determined in accordance with the following calculation:

$$\text{MQL} = 3.3 \times \text{MDL}$$

Upon written approval by the EPA Region 6 NPDES Permits Branch (6WQ-P), the effluent specific MQL may be utilized by the permittee for all future DMR reporting requirements until/or unless changes are required for adoption of a lower MQL.

#### C. 24-HOUR ORAL REPORTING: DAILY MAXIMUM LIMITATION VIOLATIONS

Under the provisions of Part III.D.7.b. (3) of this permit, violations of daily maximum limitations set forth in Part I, Section A for the following pollutants shall be reported orally to EPA Region 6, Compliance and Assurance Division, Water Enforcement Branch (6EN-W), Dallas, Texas, at (214) 665-6595, within 24 hours from the time the permittee becomes aware of the violation followed by a written report in five days.

Total mercury and total recoverable selenium

#### D. PERMIT MODIFICATION AND REOPENER

In accordance with 40 CFR Part 122.44(d), the permit may be reopened and modified during the life of the permit if relevant portions of New Mexico's Water Quality Standards for Interstate and Intrastate Streams are revised, or new State of New Mexico water quality standards are established and/or remanded.

In accordance with 40 CFR Part 122.62(s)(2), the permit may be reopened and modified if new information is received that was not available at the time of permit issuance that would have justified the application of different permit conditions at the time of permit issuance. Permit modifications shall reflect the results of any of these actions and shall follow regulations listed at 40 CFR Part 124.5.

#### E. SMCRA BOND RELEASE

When the appropriate regulatory authority returns a reclamation or performance bond based upon its determination that reclamation work has been satisfactorily completed on a watershed or a specific part of a disturbed area, the permittee may request to terminate the corresponding NPDES discharge points to that specific drainage area, if the permittee can demonstrate that the Phase III bond for that particular drainage area has been released.



**APPENDIX A of PART II**

The following Minimum Quantification Levels (MQL's) are to be used for reporting pollutant data for NPDES permit applications and/or compliance reporting.

<b>POLLUTANTS</b>	<b>MQL µg/l</b>	<b>POLLUTANTS</b>	<b>MQL µg/l</b>
<b>METALS, RADIOACTIVITY, CYANIDE and CHLORINE</b>			
Aluminum	2.5	Molybdenum	10
Antimony	60	Nickel	0.5
Arsenic	0.5	Selenium	5
Barium	100	Silver	0.5
Beryllium	0.5	Thallium	0.5
Boron	100	Uranium	0.1
Cadmium	1	Vanadium	50
Chromium	10	Zinc	20
Cobalt	50	Cyanide	10
Copper	0.5	Cyanide, weak acid dissociable	10
Lead	0.5	Total Residual Chlorine	33
Mercury *1	0.0005		
	0.005		
<b>DIOXIN</b>			
2,3,7,8-TCDD	0.00001		
<b>VOLATILE COMPOUNDS</b>			
Acrolein	50	1,3-Dichloropropylene	10
Acrylonitrile	20	Ethylbenzene	10
Benzene	10	Methyl Bromide	50
Bromoform	10	Methylene Chloride	20
Carbon Tetrachloride	2	1,1,2,2-Tetrachloroethane	10
Chlorobenzene	10	Tetrachloroethylene	10
Clorodibromomethane	10	Toluene	10
Chloroform	50	1,2-trans-Dichloroethylene	10
Dichlorobromomethane	10	1,1,2-Trichloroethane	10
1,2-Dichloroethane	10	Trichloroethylene	10
1,1-Dichloroethylene	10	Vinyl Chloride	10
1,2-Dichloropropane	10		
<b>ACID COMPOUNDS</b>			
2-Chlorophenol	10	2,4-Dinitrophenol	50
2,4-Dichlorophenol	10	Pentachlorophenol	5
2,4-Dimethylphenol	10	Phenol	10
4,6-Dinitro-o-Cresol	50	2,4,6-Trichlorophenol	10

POLLUTANTS	MQL µg/l	POLLUTANTS	MQL µg/l
<b>BASE/NEUTRAL</b>			
Acenaphthene	10	Dimethyl Phthalate	10
Anthracene	10	Di-n-Butyl Phthalate	10
Benzidine	50	2,4-Dinitrotoluene	10
Benzo(a)anthracene	5	1,2-Diphenylhydrazine	20
Benzo(a)pyrene	5	Fluoranthene	10
3,4-Benzofluoranthene	10	Fluorene	10
Benzo(k)fluoranthene	5	Hexachlorobenzene	5
Bis(2-chloroethyl)Ether	10	Hexachlorobutadiene	10
Bis(2-chloroisopropyl)Ether	10	Hexachlorocyclopentadiene	10
Bis(2-ethylhexyl)Phthalate	10	Hexachloroethane	20
Butyl Benzyl Phthalate	10	Indeno(1,2,3-cd)Pyrene	5
2-Chloronaphthalene	10	Isophorone	10
Chrysene	5	Nitrobenzene	10
Dibenzo(a,h)anthracene	5	n-Nitrosodimethylamine	50
1,2-Dichlorobenzene	10	n-Nitrosodi-n-Propylamine	20
1,3-Dichlorobenzene	10	n-Nitrosodiphenylamine	20
1,4-Dichlorobenzene	10	Pyrene	10
3,3'-Dichlorobenzidine	5	1,2,4-Trichlorobenzene	10
Diethyl Phthalate	10		
<b>PESTICIDES AND PCBS</b>			
Aldrin	0.01	Beta-Endosulfan	0.02
Alpha-BHC	0.05	Endosulfan sulfate	0.02
Beta-BHC	0.05	Endrin	0.02
Gamma-BHC	0.05	Endrin Aldehyde	0.1
Chlordane	0.2	Heptachlor	0.01
4,4'-DDT and derivatives	0.02	Heptachlor Epoxide	0.01
Dieldrin	0.02	PCBs	0.2
Alpha-Endosulfan	0.01	Toxaphene	0.3

(MQL's Revised November 1, 2007)

**Footnotes:**

\*1 Default MQL for Mercury is 0.005 unless Part I of your permit requires the more sensitive Method 1631 (Oxidation / Purge and Trap / Cold vapor Atomic Fluorescence Spectrometry), then the MQL shall be 0.0005

PART III - STANDARD CONDITIONS FOR NPDES PERMITSA. GENERAL CONDITIONS1. INTRODUCTION

In accordance with the provisions of 40 CFR Part 122.41, et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the "Act") as well as ALL applicable regulations.

2. DUTY TO COMPLY

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. TOXIC POLLUTANTS

a. Notwithstanding Part III.A.5, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.

b. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. DUTY TO REAPPLY

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit. The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date. Continuation of expiring permits shall be governed by regulations promulgated at 40 CFR Part 122.6 and any subsequent amendments.

5. PERMIT FLEXIBILITY

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62-64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. PROPERTY RIGHTS

This permit does not convey any property rights of any sort, or any exclusive privilege.

7. DUTY TO PROVIDE INFORMATION

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

## 8. CRIMINAL AND CIVIL LIABILITY

Except as provided in permit conditions on "Bypassing" and "Upsets", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

## 9. OIL AND HAZARDOUS SUBSTANCE LIABILITY

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

## 10. STATE LAWS

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

## 11. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

## B. PROPER OPERATION AND MAINTENANCE

### 1. NEED TO HALT OR REDUCE NOT A DEFENSE

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

### 2. DUTY TO MITIGATE

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

### 3. PROPER OPERATION AND MAINTENANCE

a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by permittee as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

#### 4. BYPASS OF TREATMENT FACILITIES

##### a. BYPASS NOT EXCEEDING LIMITATIONS

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III.B.4.b. and 4.c.

##### b. NOTICE

###### (1) ANTICIPATED BYPASS

If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

###### (2) UNANTICIPATED BYPASS

The permittee shall, within 24 hours, submit notice of an unanticipated bypass as required in Part III.D.7.

##### c. PROHIBITION OF BYPASS

(1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

(c) The permittee submitted notices as required by Part III.B.4.b.

(2) The Director may allow an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed at Part III.B.4.c(1).

#### 5. UPSET CONDITIONS

##### a. EFFECT OF AN UPSET

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part III.B.5.b. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

##### b. CONDITIONS NECESSARY FOR A DEMONSTRATION OF UPSET

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

- (2)The permitted facility was at the time being properly operated;
- (3)The permittee submitted notice of the upset as required by Part III.D.7; and,
- (4)The permittee complied with any remedial measures required by Part III.B.2.

c. BURDEN OF PROOF

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. REMOVED SUBSTANCES

Unless otherwise authorized, solids, sewage sludges, filter backwash, or other pollutants removed in the course of treatment or wastewater control shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

7. PERCENT REMOVAL (PUBLICLY OWNED TREATMENT WORKS)

For publicly owned treatment works, the 30-day average (or Monthly Average) percent removal for Biochemical Oxygen Demand and Total Suspended Solids shall not be less than 85 percent unless otherwise authorized by the permitting authority in accordance with 40 CFR 133.103.

C. MONITORING AND RECORDS

1. INSPECTION AND ENTRY

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by the law to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. REPRESENTATIVE SAMPLING

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. RETENTION OF RECORDS

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

#### 4. RECORD CONTENTS

Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

#### 5. MONITORING PROCEDURES

- a. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.
- b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.
- c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

#### 6. FLOW MEASUREMENTS

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than 10% from true discharge rates throughout the range of expected discharge volumes.

### D. REPORTING REQUIREMENTS

#### 1. PLANNED CHANGES

##### a. INDUSTRIAL PERMITS

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b); or,
- (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements listed at Part III.D.10.a.

##### b. MUNICIPAL PERMITS

Any change in the facility discharge (including the introduction of any new source or significant

discharge or significant changes in the quantity or quality of existing discharges of pollutants) must be reported to the permitting authority. In no case are any new connections, increased flows, or significant changes in influent quality permitted that will cause violation of the effluent limitations specified herein.

2. ANTICIPATED NONCOMPLIANCE

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. TRANSFERS

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

4. DISCHARGE MONITORING REPORTS AND OTHER REPORTS

Monitoring results must be reported to EPA on either the electronic or paper Discharge Monitoring Report (DMR) approved formats. Monitoring results can be submitted electronically in lieu of the paper DMR Form. To submit electronically, access the NetDMR website at [www.epa.gov/netdmr](http://www.epa.gov/netdmr) and contact the [R6NetDMR@epa.gov](mailto:R6NetDMR@epa.gov) in-box for further instructions. Until you are approved for Net DMR, you must report on the Discharge Monitoring Report (DMR) Form EPA No. 3320-1 in accordance with the "General Instructions" provided on the form. No additional copies are needed if reporting electronically, however when submitting paper form EPA No. 3320-1, the permittee shall submit the original DMR signed and certified as required by Part III.D.11 and all other reports required by Part III.D. to the EPA at the address below. Duplicate copies of paper DMR's and all other reports shall be submitted to the appropriate State agency (ies) at the following address (es):

EPA:

Compliance Assurance and Enforcement Division  
Water Enforcement Branch (6EN-W)  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733

New Mexico:

Program Manager  
Surface Water Quality Bureau  
New Mexico Environment Department  
P.O. Box 5469  
1190 Saint Francis Drive  
Santa Fe, NM 87502-5469

5. ADDITIONAL MONITORING BY THE PERMITTEE

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR). Such increased monitoring frequency shall also be indicated on the DMR.

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.



**6. AVERAGING OF MEASUREMENTS**

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

**7. TWENTY-FOUR HOUR REPORTING**

a. The permittee shall report any noncompliance which may endanger health or the environment. Notification shall be made to the EPA at the following e-mail address: R6\_NPDES\_Reporting@epa.gov, as soon as possible, but within 24 hours from the time the permittee becomes aware of the circumstance. Oral notification shall also be to the New Mexico Environment Department at (505) 827-0187 as soon as possible, but within 24 hours from the time the permittee becomes aware of the circumstance. A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain the following information:

(1) A description of the noncompliance and its cause;

(2) The period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,

(3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

b. The following shall be included as information which must be reported within 24 hours:

(1) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(2) Any upset which exceeds any effluent limitation in the permit; and,

(3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part II (industrial permits only) of the permit to be reported within 24 hours.

c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

**8. OTHER NONCOMPLIANCE**

The permittee shall report all instances of noncompliance not reported under Parts III.D.4 and D.7 and Part I.B (for industrial permits only) at the time monitoring reports are submitted. The reports shall contain the information listed at Part III.D.7.

**9. OTHER INFORMATION**

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

**10. CHANGES IN DISCHARGES OF TOXIC SUBSTANCES**

All existing manufacturing, commercial, mining, and silvacultural permittees shall notify the Director as soon as it knows or has reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or

frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (1) One hundred micrograms per liter (100 µg/L);
- (2) Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitro-phenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
- (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the Director.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (1) Five hundred micrograms per liter (500 µg/L);
- (2) One milligram per liter (1 mg/L) for antimony;
- (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the Director.

#### 11. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Director shall be signed and certified.

a. ALL PERMIT APPLICATIONS shall be signed as follows:

- (1) FOR A CORPORATION - by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
  - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,
  - (b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) FOR A PARTNERSHIP OR SOLE PROPRIETORSHIP - by a general partner or the proprietor, respectively.
- (3) FOR A MUNICIPALITY, STATE, FEDERAL, OR OTHER PUBLIC AGENCY - by either a principal executive officer or ranking elected official. For purposes of this section, a principal

executive officer of a Federal agency includes:

(a) The chief executive officer of the agency, or

(b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

b. ALL REPORTS required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described above;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,

(3) The written authorization is submitted to the Director.

c. CERTIFICATION

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

12. AVAILABILITY OF REPORTS

Except for applications, effluent data permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

E. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS

1. CRIMINAL

a. NEGLIGENT VIOLATIONS

The Act provides that any person who negligently violates permit conditions implementing Section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2

years, or both.

b. KNOWING VIOLATIONS

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.

c. KNOWING ENDANGERMENT

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

d. FALSE STATEMENTS

The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309.c.4 of the Clean Water Act)

2. CIVIL PENALTIES

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$37,500 per day for each violation.

3. ADMINISTRATIVE PENALTIES

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

a. CLASS I PENALTY

Not to exceed \$16,000 per violation nor shall the maximum amount exceed \$37,500.

b. CLASS II PENALTY

Not to exceed \$16,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$177,500.

**F. DEFINITIONS**

All definitions contained in Section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in this permit, additional definitions of words or phrases used in this permit are as follows:

1. **ACT** means the Clean Water Act (33 U.S.C. 1251 et. seq.), as amended.
2. **ADMINISTRATOR** means the Administrator of the U.S. Environmental Protection Agency.
3. **APPLICABLE EFFLUENT STANDARDS AND LIMITATIONS** means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards or performance, toxic effluent standards and prohibitions, and pretreatment standards.
4. **APPLICABLE WATER QUALITY STANDARDS** means all water quality standards to which a discharge is subject under the Act.
5. **BYPASS** means the intentional diversion of waste streams from any portion of a treatment facility.
6. **DAILY DISCHARGE** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day. "Daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be arithmetic average (weighted by flow value) of all samples collected during that sampling day.
7. **DAILY MAXIMUM** discharge limitation means the highest allowable "daily discharge" during the calendar month.
8. **DIRECTOR** means the U.S. Environmental Protection Agency Regional Administrator or an authorized representative.
9. **ENVIRONMENTAL PROTECTION AGENCY** means the U.S. Environmental Protection Agency.
10. **GRAB SAMPLE** means an individual sample collected in less than 15 minutes.
11. **INDUSTRIAL USER** means a nondomestic discharger, as identified in 40 CFR 403, introducing pollutants to a publicly owned treatment works.
12. **MONTHLY AVERAGE** (also known as **DAILY AVERAGE**) discharge limitations means the highest allowable average of "daily discharge(s)" over a calendar month, calculated as the sum of all "daily discharge(s)" measured during a calendar month divided by the number of "daily discharge(s)" measured during that month. When the permit establishes daily average concentration effluent limitations or conditions, the daily average concentration means the arithmetic average (weighted by flow) of all "daily discharge(s)" of concentration determined during the calendar month where C = daily concentration, F = daily flow, and n = number of daily samples; daily average

discharge =

$$\frac{C_1F_1 + C_2F_2 + \dots + C_nF_n}{F_1 + F_2 + \dots + F_n}$$

13. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the Act..
14. SEVERE PROPERTY DAMAGE means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
15. SEWAGE SLUDGE means the solids, residues, and precipitates separated from or created in sewage by the unit processes of a publicly owned treatment works. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and storm water runoff that are discharged to or otherwise enter a publicly owned treatment works.
16. TREATMENT WORKS means any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial wastes of a liquid nature to implement Section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and their appurtenances, extension, improvement, remodeling, additions, and alterations thereof.
17. UPSET means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
18. FOR FECAL COLIFORM BACTERIA, a sample consists of one effluent grab portion collected during a 24-hour period at peak loads.
19. The term "MGD" shall mean million gallons per day.
20. The term "mg/L" shall mean milligrams per liter or parts per million (ppm).
21. The term "ug/L" shall mean micrograms per liter or parts per billion (ppb).

22. MUNICIPAL TERMS

- a. 7-DAY AVERAGE or WEEKLY AVERAGE, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week. The 7-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
- b. 30-DAY AVERAGE or MONTHLY AVERAGE, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. The 30-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.
- c. 24-HOUR COMPOSITE SAMPLE consists of a minimum of 12 effluent portions collected at equal time intervals over the 24-hour period and combined proportional to flow or a sample collected at frequent intervals proportional to flow over the 24-hour period.
- d. 12-HOUR COMPOSITE SAMPLE consists of 12 effluent portions collected no closer together than one hour and composited according to flow. The daily sampling intervals shall include the highest flow periods.
- e. 6-HOUR COMPOSITE SAMPLE consists of six effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.
- f. 3-HOUR COMPOSITE SAMPLE consists of three effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.



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