



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1201 ELM STREET, SUITE 500  
DALLAS, TX 75270

AUG 28 2019

REPLY TO: 6WQ-PN

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7014 0150 0000 2405 2395)

Shannon Jones  
Public Utilities Director  
City of Santa Fe  
Buckman Direct Diversion  
341 Caja del Rio Road  
Santa Fe, NM 87506

RECEIVED

SEP 17 2019

SURFACE WATER  
QUALITY BUREAU

Re: NPDES Permit Number: NM0030848 – Buckman Direct Diversion

Dear Ms. Jones:

This package constitutes EPA's final permit decision for the above referenced facility. Enclosed are the responses to comments received during the public comment period and the final permit. According to EPA regulations at 40 CFR 124.19, within 30 days after a final permit decision has been issued, any person who filed comments on the draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision.

Should you have any questions regarding the final permit, please feel free to contact Ruben Alayon-Gonzalez of the NPDES Permits Branch at the above address or by telephone: (214) 665-2785 or by E-mail: [alayon-gonzalez.ruben@epa.gov](mailto:alayon-gonzalez.ruben@epa.gov). Should you have any questions regarding compliance with the conditions of this permit, please contact the Water Enforcement Branch at the above address or by telephone: (214)-665-6468.

Sincerely yours,

Charles W. Maguire  
Director  
Water Division

cc w/enclosures:

✓ Shelly Lemon, NMED

**NPDES PERMIT NO. NM0030848**  
**RESPONSE TO COMMENTS**

RECEIVED ON THE SUBJECT DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION  
SYSTEM (NPDES) PERMIT IN ACCORDANCE WITH REGULATIONS LISTED AT  
40 CFR 124.17

**APPLICANT:** City of Santa Fe  
Buckman Direct Diversion Project  
341 Caja del Rio Road  
Santa Fe, NM 87506

**ISSUING OFFICE:** U.S. Environmental Protection Agency  
Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270

**PREPARED BY:** Ruben Alayon-Gonzalez  
Permitting Section (WDPE)  
Water Division  
VOICE: 214-665-2785  
EMAIL: alayon-gonzalez.ruben@epa.gov

**PERMIT ACTION:** Proposed reissuance of the current permit issued with an effective date of  
September 1, 2014 and an expiration date of August 31, 2019.

**DATE PREPARED:** August 20, 2019

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of  
Federal Regulations, revised as of August 20, 2019.

**STATE CERTIFICATION**

In a letter from Shelly Lemon, Bureau Chief, SWQB, to Charles Maguire, Director, Water Division (EPA) dated August 13, 2019, 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:**

None

**COMMENTS THAT ARE NOT CONDITIONS OF CERTIFICATION:****Comments from Buckman Direct Diversion (BDD):**

**Comment No. 1:** Draft Permit Part I, Page 2, "Whole Effluent Toxicity Testing", second table applicable to years 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup>. The applicant requests that the second table be revised to specify "Whole Effluent Toxicity Testing" of "48-hour Static Renewal" instead of the general description "48-hour acute test" as it is currently written in the draft permit.

**Response No. 1:** EPA concurs and changed to "48-hour Static Renewal" in the WET second table.

**Comment No. 2:** BDD Draft Permit Part II, Page 8, Section 2.d "Samples and Composites", (bullet 1 and 2). The applicant requests that the draft permit be revised to require the collection of two flow-weighted composite samples, instead of three samples as currently specified by the draft permit. The WET testing of "48-hour Static Renewal" requires the collection of only one additional second sample, not a third sample because the effluent during the testing is renewed only once at the 24-hour mark.

**Response No. 2:** EPA concurs, and the permittee shall collect only two flow weighted 24-hour composite samples from the outfall, just like the current permit.

**Comment No. 3:** BDD Draft Permit Part II, Page 8, Section 2.d "Samples and Composites", (bullet 3). The draft permit allows for holding time of 72 hours of the collected samples. However, Section 8.5.4 of EPA Guidance EPA-821-R-02-012 specifies that the holding time for this test is 36 hours. BDD has not requested extended holding time and would like to confirm that the intent of the draft permits is indeed to allow for longer holding of the collected samples considering the EPA Guidance and the BDD's current NPDES Permit requirement.

**Response No. 3:** The intent of bullet 3, Section 2.d is to allow for longer holding time of the collected samples if needed. No change is necessary in the final permit.

**Comment No. 4:** BDD Draft Permit Part I, Page 2, WET Testing "Sample Type". The applicant requests that the draft permit be revised to allow for one grab sample (collected mid-way) or 3-hr composite (collected mid-way) to be collected for WET testing instead of the 12-hr composite sample as proposed in the draft permit. The basis for this request follows.

BDD had operated and still operates its Sediment Removal Facility (where the grit removal occurs) intermittently, from 3 hours to 12 hours shifts depending on the local water system demand. The quality of the BDD's effluent depends exclusively on the river water quality because the "grit removal" is achieved by physical means without added chemicals. The river water quality cannot and does not change abruptly during work shifts, and when it does during storm events or other natural occurrences, it is the BDD's policy to stop diversion of influent when turbidity exceeds preset NTUs due to the equipment limitations on suspended sediment content of that influent.

The historic WET testing results for all BDD's operational years do not indicate any variability in its effluent toxicity. For its 8 years of operation BDD has never failed WET testing. The collection of two consecutive 12-hour composite samples is a burden to the current operation of the BDD grit removal facility and BDD staff due to variable raw (influent) water pumping durations and the variable local water demand.

Based on this information, BDD requests that the draft permit be revised to allow for one grab sample or at least 3-hr composite sample collected midway during effluent discharges of the work shift of the Sediment Removal Facility.

**Response No. 4:** Based on historic WET testing results and the nature of the discharge from BDD, EPA has no objections and the final permit allows a 3-hour composite sample collected midway during effluent discharges as requested by the permittee.

**Comment No. 5:** BDD Draft Permit Part I, Page 4, Section D "Pollution Prevention Requirements". BDD requests that this section of the draft permit be removed in its entirety. BDD contends that this section is not applicable to the BDD's type of facility and it was added in error to its draft permit because BDD was required to fill out Application Form 2C and classified as an industrial facility by EPA, and not as a POTW or a storm water discharger.

**Response No. 5:** Since this Part was not included in the current BDD NPDES permit, EPA concurs and has eliminated Section D from the final permit.

**Comment No. 6:** BDD Draft Permit Part II, Page 2 & 3, Section B "Contributing Industries and Pretreatment Requirements". BDD requests that this section of the draft permit be removed in its entirety. BDD contends that this section is not applicable to the BDD's type of facility and it was added in error to its draft permit because BDD was classified as an industrial facility (see page 10 of "Fact Sheet") by EPA, and not as a POTW. In addition, the "Fact Sheet" specified that "no changes have been made to the previous permit" and thus no basis for these additional requirements were provided by EPA.

**Response No. 6:** EPA concurs and has eliminated this part in the final permit.



REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TX 75270

NPDES Permit No NM0030848

## 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"),

City of Santa Fe  
Buckman Direct Diversion  
341 Caja del Rio Road  
Santa Fe, NM 87506

is authorized to discharge from a facility located at 341 Caja del Rio Road, Santa Fe, Santa Fe County, New Mexico. The discharge will be to receiving waters named Rio Grande, in Waterbody Segment Code No. 20.6.4.114 of the Rio Grande Basin,

the discharge is located at the following coordinates:

Outfall 001: Latitude 35° 50' 10" North, Longitude 106° 9' 43" West,

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof.

This permit, prepared by Ruben Alayon-Gonzalez, Environmental Engineer, Permitting Section (6WQ-PP), supersedes and replaces NPDES Permit No. NM0030848 with an effective date of September 1, 2014.

This permit shall become effective on *October 1, 2019*

This permit and the authorization to discharge shall expire at midnight, *September 30, 2024*

Issued on AUG 28 2019

Charles W. Maguire  
Director  
Water Division (6WD)

## DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

4Q3	Lowest four-day average flow rate expected to occur once every three-years
BAT	Best available technology economically achievable
BCT	Best conventional pollutant control technology
BPT	Best practicable control technology currently available
BMP	Best management plan
BOD	Biochemical oxygen demand (five-day unless noted otherwise)
BPJ	Best professional judgment
CBOD	Carbonaceous biochemical oxygen demand (five-day unless noted otherwise)
CD	Critical dilution
CFR	Code of Federal Regulations
cfs	Cubic feet per second
COD	Chemical oxygen demand
COE	United States Corp of Engineers
CWA	Clean Water Act
DMR	Discharge monitoring report
ELG	Effluent limitation guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FCB	Fecal coliform bacteria
FWS	United States Fish and Wildlife Service
mg/l	Milligrams per liter
ug/l	Micrograms per liter
lbs	Pounds
MGD	Million gallons per day
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMIP	New Mexico NPDES Permit Implementation Procedures
NMWQS	New Mexico State Standards for Interstate and Intrastate Surface Waters
NPDES	National Pollutant Discharge Elimination System
MQL	Minimum quantification level
O&G	Oil and grease
POTW	Publicly owned treatment works
RP	Reasonable potential
SS	Settleable solids
SIC	Standard industrial classification
s.u.	Standard units (for parameter pH)
SWQB	Surface Water Quality Bureau
TDS	Total dissolved solids
TMDL	Total maximum daily load
TRC	Total residual chlorine
TSS	Total suspended solids
UAA	Use attainability analysis
USGS	United States Geological Service
WLA	Wasteload allocation
WET	Whole effluent toxicity
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan
WWTP	Wastewater treatment plant

**PART I – REQUIREMENTS FOR NPDES PERMITS****A. LIMITATIONS AND MONITORING REQUIREMENTS****1. OUTFALL 001 - FINAL Effluent Limits**

During the period beginning the effective date of the permit and lasting through the expiration date of the permit (unless otherwise noted), the permittee is authorized to discharge gravity separated wastewater to Rio Grande, in Segment Number 20.6.4.114, from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below:

<b>EFFLUENT CHARACTERISTICS</b>	<b>DISCHARGE LIMITATIONS</b>		<b>MONITORING REQUIREMENTS</b>	
<b>POLLUTANT</b>	<b>MINIMUM</b>	<b>MAXIMUM</b>	<b>MEASUREMENT FREQUENCY</b>	<b>SAMPLE TYPE</b>
pH	6.6 s.u.	9.0 s.u.	Once/Week	Instantaneous Grab

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	lbs/day, unless noted		mg/l, unless noted (*1)			
POLLUTANT	30-DAY AVG	DAILY MAX	30-DAY AVG	DAILY MAX	MEASUREMENT FREQUENCY	SAMPLE TYPE
Flow, outfall 001	Report MGD	Report MGD	N/A	N/A	Continuous	Record
Flow, stream, instantaneous (*1)	Report CFS	Report CFS	N/A	N/A	Continuous	Record
Turbidity-Instream Upstream (*2,*3)	N/A	N/A	N/A	Report (*4)	Once/Week (*8)	Grab (*9)
Turbidity-Instream Downstream (*3,*5)	N/A	N/A	N/A	Report (*4)	Once/Week (*8)	Grab (*9)
Turbidity (*6,*7)	N/A	N/A	N/A	0	Once/Week	Calculation

EFFLUENT CHARACTERISTIC	DISCHARGE MONITORING	MONITORING REQUIREMENTS	
		MEASUREMENT FREQUENCY	SAMPLE TYPE
Whole Effluent Toxicity Testing (48-Hour Static Renewal) (*10, *11)	VALUE		
<i>Daphnia pulex</i> (1 <sup>st</sup> year)	Report	Once/Quarter	3-hr Composite
<i>Pimephales promelas</i> (1 <sup>st</sup> year)	Report	Once/Quarter	3-hr Composite

EFFLUENT CHARACTERISTIC	DISCHARGE MONITORING	MONITORING REQUIREMENTS	
		MEASUREMENT FREQUENCY	SAMPLE TYPE
Whole Effluent Toxicity Testing (48-Hour Static Renewal) (*10, *11)	VALUE		
<i>Daphnia pulex</i> (years: 2 <sup>nd</sup> , 3 <sup>rd</sup> , 4 <sup>th</sup> , 5 <sup>th</sup> )	Report	Once/6 months (*12)	3-hr Composite
<i>Pimephales promelas</i> (years: 2 <sup>nd</sup> , 3 <sup>rd</sup> , 4 <sup>th</sup> , 5 <sup>th</sup> )	Report	Once/Year (*12)	3-hr Composite

Footnotes:

- \*1 The permittee shall report flow data from USGS gauging station USGS 08313000 "Rio Grande at Otowi Bridge, NM". The permittee is prohibited to discharge to the receiving stream during any period in which the instantaneous stream flow is 150 cfs or less.
- \*2 Instream upstream sample point, 01U is located at least 30 feet upstream but not greater than 100-feet of Outfall 001. Sample must be taken within one (1) hour of sample from instream downstream sample point 01D.
- \*3 The permittee shall report all turbidity measurements taken at sample points 01U and 01D within the reporting period. Results cannot be averaged for reporting purposes (See Part II, Section E, Turbidity Testing).
- \*4 Nephelometric turbidity units (NTU).
- \*5 Instream downstream sample point 01D is located at least 100-feet downstream but not greater than 150-feet of Outfall 001. Sample must be taken within one (1) hour of sample from instream upstream sample point 01U.
- \*6 The permittee shall report the total number of test failures for each reporting period. (See Part II, Section E, Turbidity Testing). A test failure constitutes an effluent exceedance.
- \*7 If turbidity  $\leq 50$  NTU, delta  $\leq 10$  NTU; if turbidity  $\geq 50$  NTU, delta  $\leq 20\%$  increase. Example calculations are provided in Part II, Section E.4.
- \*8 Turbidity measurements are required on a weekly basis only on days when the river diversion is operating.
- \*9 The permittee may utilize an instream probe for the purpose of measuring turbidity. However, the same sample type shall be used to measure both upstream and downstream turbidity
- \*10 See Part II, Section F of the permit.
- \*11 3-hr composite sample consists of three effluent portions collected no closer together than one hour and composited according to flow. The daily sampling intervals shall be collected midway during effluent discharges.
- \*12 If there is a failure, the frequency for that species reverts to quarterly for the remainder of the permit.

**2. 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.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge from the final treatment unit prior to the receiving stream. The sample point shall be clearly marked by the facility if it is not at the final outfall location. There shall be no flow from any source into the piping system after the sample point and prior to the final outfall.

**B. SCHEDULES OF COMPLIANCE**

None

**C. MONITORING AND E-REPORTING (MAJOR DISCHARGERS)**

1. The permittee shall effectively monitor the operation and efficiency of all treatment and control facilities and the quantity and quality of the treated discharge.
2. Discharge Monitoring Report (DMR) results shall be electronically reported to EPA per 40 CFR 127.16. To submit electronically, access the NetDMR website at <https://netdmr.epa.gov>. Until approved for Net DMR, the permittee shall request temporary or emergency waivers from electronic reporting. To obtain the waiver, please contact: U.S. EPA - Region 6, Water Enforcement Branch, New Mexico State Coordinator (6EN-WC), (214) 665-7179. If paper reporting is granted temporarily, 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 and copies to NMED as required (See Part III.D.IV of the permit).
  - a. Reporting periods shall end on the last day of each month.
  - b. The permittee is required to submit regular monthly reports as described above postmarked no later than the 15<sup>th</sup> day of the month following each reporting period.
  - c. If any 7-day average or daily maximum value exceeds the effluent limitations specified in Part I.A, the permittee shall report the excursion in accordance with the requirements of Part III.D.
  - d. Any 30-day, 7-day average, or daily maximum value reported in the required Discharge Monitoring Report which is in excess of the effluent limitation specified in Part I.A shall constitute evidence of violation of such effluent limitation and of this permit.
3. No discharge reporting.

If there is no discharge at Outfall 001 during the sampling month, place an X in the NO DISCHARGE box located in the upper right corner of the Discharge Monitoring Report.

**PART II - OTHER CONDITIONS****A. MINIMUM QUANTIFICATION LEVEL (MQL)**

EPA-approved test procedures (methods) for the analysis and quantification of pollutants or pollutant parameters, including for the purposes of compliance monitoring/DMR reporting, permit renewal applications, or any other reporting that may be required as a condition of this permit, shall be sufficiently sensitive. A method is "sufficiently sensitive" when (1) the method minimum level (ML) of quantification is at or below the level of the applicable effluent limit for the measured pollutant or pollutant parameter; or (2) if there is no EPA-approved analytical method with a published ML at or below the effluent limit (see table below), then the method has the lowest published ML (is the most sensitive) of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR Chapter I, Subchapters N or O, for the measured pollutant or pollutant parameter; or (3) the method is specified in this permit or has been otherwise approved in writing by the permitting authority (EPA Region 6) for the measured pollutant or pollutant parameter. The Permittee has the option of developing and submitting a report to justify the use of matrix or sample-specific MLs rather than the published levels. Upon written approval by EPA Region 6 the matrix or sample-specific MLs may be utilized by the Permittee for all future Discharge Monitoring Report (DMR) reporting requirements.

Current EPA Region 6 minimum quantification levels (MQLs) for reporting and compliance are provided in Appendix A of Part II of this permit. The following pollutants may not have EPA approved methods with a published ML at or below the effluent limit, if specified:

POLLUTANT	CAS Number	STORET Code
Total Residual Chlorine	7782-50-5	50060
Cadmium	7440-43-9	01027
Silver	7440-22-4	01077
Thallium	7440-28-0	01059
Cyanide	57-12-5	78248
Dioxin (2,3,7,8-TCDD)	1764-01-6	34675
4, 6-Dinitro-0-Cresol	534-52-1	34657
Pentachlorophenol	87-86-5	39032
Benzidine	92-87-5	39120
Chrysene	218-01-9	34320
Hexachlorobenzene	118-74-1	39700
N-Nitrosodimethylamine	62-75-9	34438
Aldrin	309-00-2	39330
Chlordane	57-74-9	39350
Dieldrin	60-57-1	39380
Heptachlor	76-44-8	39410
Heptachlor epoxide	1024-57-3	39420
Toxaphene	8001-35-2	39400

Unless otherwise indicated in this permit, if the EPA Region 6 MQL for a pollutant or pollutant parameter is sufficiently sensitive (as defined above) and the analytical test result is less than the MQL, then a value of zero (0) may be used for reporting purposes on DMRs. Furthermore, if the EPA Region 6 MQL for a pollutant or parameter is not sufficiently sensitive, but the analytical test result is less than the published ML from a sufficiently sensitive method, then a value of zero (0) may be used for reporting purposes on DMRs.

**B. 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 for the following pollutants shall be reported orally to EPA Region 6, Compliance and Assurance Division, Water Enforcement Branch (6EN-W), Dallas, Texas, and concurrently to NMED within 24 hours from the time the permittee becomes aware of the violation followed by a written report in five days.

- None

**C. 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 water quality standards are established and/or remanded by the New Mexico Water Quality Control Commission.

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].

**D. TURBIDITY TESTING****1. Reporting Turbidity Measurements at Instream Sample Points 01U and 01D**

Instream upstream sample point, 01U is located at least 30-feet upstream but not greater than 100-feet of Outfall 001. Instream downstream sample point, 01D is located at least 100-feet downstream but not greater than 150-feet of Outfall 001. There are no other discharges or tributaries within this area that would add sediments or affect turbidity, so the difference in measurements are expected to be due primarily, if not exclusively to the BDD discharge.

The permittee shall report all turbidity measurements taken at Instream Sample Points 01U and 01D within the reporting period. Instream Sample Point 01U shall be reported as STORET Code No. 52330 and Instream Sample Point 01D shall be reported as STORET Code No. 52350. These values shall not be averaged for reporting purposes.

**2. Determining Turbidity Test Results**

- (a) If turbidity reported at Instream Sample Point 01U is 50 NTU or less:

If the difference of the measured turbidity at Instream Sample Points 01U and 01D is greater than 10 NTU, assign a "1" to the turbidity test; otherwise, assign a "0".

- (b) If turbidity reported at Instream Sample Point 01U is greater than 50 NTU:

If the difference of the measured turbidity at Instream Sample Points 01U and 01D is greater than 20% of the turbidity recorded from Sample Point 01U, assign a "1" to the turbidity test; otherwise, assign a "0".

### 3. Reporting Total Turbidity Test Failures

#### (a) If turbidity test failures occur during the reporting period:

Sum the numerical values assigned to each turbidity test taken within the reporting period. Enter this amount for STORET Code No. 51517 in the report.

#### (b) If no turbidity test failures occur during the reporting period:

Enter a "0" for STORET Code No. 51517 in the report.

### 4. Example Calculations

In this example, the permittee is required to sample four (4) time within a reporting period:

#### Sample 1

Instream Sample Point 01U turbidity measurement: 20 NTU

Instream Sample Point 01D turbidity measurement: 25 NTU

Instream Sample Point 01U turbidity is less than 50 NTU, therefore b.2(a) criteria will be used. The difference of the turbidity at Instream Sample Points 01U and 01D is 5 NTU, which is less than the 10 NTU criteria. Therefore, this sample is a "Pass" and would have a value of "0".

#### Sample 2

Instream Sample Point 01U turbidity measurement: 20 NTU

Instream Sample Point 01D turbidity measurement: 40 NTU

Instream Sample Point 01U turbidity is less than 50 NTU, therefore b.2(a) criteria will be used. The difference of the turbidity at Instream Sample Points 01U and 01D is 20 NTU, which is greater than the 10 NTU criteria. Therefore, this sample is a "Fail" and would have a value of "1".

#### Sample 3

Instream Sample Point 01U turbidity measurement: 100 NTU

Instream Sample Point 01D turbidity measurement: 115 NTU

Instream Sample Point 01U turbidity is greater than 50 NTU, therefore b.2(b) criteria will be used.

Twenty percent (20%) of Instream Sample Point 01U turbidity is 20 NTU. The difference of the turbidity at Instream Sample Points 01U and 01D is 15 NTU, which is less than the 20 NTU criteria. Therefore, this sample is a "Pass" and would have a value of "0".

#### Sample 4

Instream Sample Point 01U turbidity measurement: 100 NTU

Instream Sample Point 01D turbidity measurement: 150 NTU

Instream Sample Point 01U turbidity is greater than 50 NTU, therefore b.2(b) criteria will be used. Twenty percent (20%) of Instream Sample Point 01U turbidity is 20 NTU. The difference of the turbidity at Instream Sample Points 01U and 01D is 50 NTU, which is greater than the 20 NTU criteria. Therefore, this sample is a "Fail" and would have a value of "1".

### Sample Reporting

The permittee will report all turbidity measurements from Instream Sample Points 01U and 01D. The permittee shall also sum each pass/fail test result. In this example:

Sample 1: 0  
Sample 2: 1  
Sample 3: 0  
Sample 4: 1  
Total: 2

Therefore, the permittee would enter a "2" for STORET Code No. 51517.

### E. WHOLE EFFLUENT TOXICITY TESTING (48-HR ACUTE NOEC FRESHWATER)

It is unlawful and a violation of this permit for a permittee or his designated agent, to manipulate test samples in any manner, to delay sample shipment, or to terminate or to cause to terminate a toxicity test. Once initiated, all toxicity tests must be completed unless specific authority has been granted by EPA Region 6 or the State NPDES permitting authority.

#### 1. SCOPE AND METHODOLOGY

- a. The permittee shall test the effluent for toxicity in accordance with the provisions in this section.

APPLICABLE TO FINAL OUTFALL(S):	001
REPORTED ON DMR AS FINAL OUTFALL:	001
EFFLUENT DILUTION SERIES:	0.5%, 0.7%, 0.9%, 1.2%, and 1.6%
CRITICAL DILUTION:	1.2%
COMPOSITE SAMPLE TYPE:	Defined at PART I
TEST SPECIES/METHODS:	40 CFR Part 136

*Daphnia pulex* acute static renewal 48-hour definitive toxicity test using EPA 821 R 01 012, or the latest update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

*Pimephales promelas* (Fathead minnow) acute static renewal 48-hour definitive toxicity test using EPA 821 R 02 012, or the latest update thereof. A minimum of five (5) replicates with

eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

- b. The NOEC (No Observed Lethal Effect Concentration) is herein defined as the greatest effluent dilution at and below which lethality that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. Acute test failure is defined as a demonstration of a statistically significant lethal effect at test completion to a test species at or below the critical dilution.
- c. This permit may be reopened to require whole effluent toxicity limits, chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.
- d. This permit does not establish requirements to automatically increase the WET testing frequency after a test failure, or to begin a toxicity reduction evaluation (TRE) in the event of multiple test failures. However, upon failure of any WET test, the permittee must report the test results to EPA, in writing, within 5 business days of notification the test failure. EPA will review the test results and determine the appropriate action necessary, if any.

## 2. REQUIRED TOXICITY TESTING CONDITIONS

### a. Test Acceptance

The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied, including the following additional criteria:

- The toxicity test control (0% effluent) must have survival equal to or greater than 90%.
- The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for: *Daphnia pulex* survival test; and Fathead minnow survival test.
- The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal effects are exhibited for: *Daphnia pulex* survival test; and Fathead minnow survival test.

Test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%. A repeat test shall be conducted within the required reporting period of any test determined to be invalid.

### b. Statistical Interpretation

- For the *Daphnia pulex* survival test and the Fathead minnow survival test, the statistical analyses used to determine if there is a statistically significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in EPA 821 R 01 012 or the most recent update thereof.

- If the conditions of Test Acceptability are met in Item 3.a above and the percent survival of the test organism is equal to or greater than 90% in the critical dilution concentration and all lower dilution concentration, the test shall be considered to be a passing test, and the permittee shall report an NOEC of not less than the critical dilution for the DMR reporting requirements found in Item 4 below.

c. Dilution Water

- Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and alkalinity to the closest downstream perennial water for;
  - toxicity tests conducted on effluent discharges to receiving water classified as intermittent streams; and
  - toxicity tests conducted on effluent discharges where no receiving water is available due to zero flow conditions.
- If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria of Item 2.a), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:
  - a synthetic dilution water control which fulfills the test acceptance requirements of Item 3.a was run concurrently with the receiving water control;
  - the test indicating receiving water toxicity has been carried out to completion (i.e., 7 days);
  - the permittee includes all test results indicating receiving water toxicity with the full report and information required by Item 3 below; and
  - the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.

d. Samples and Composites

- The permittee shall collect a minimum of two flow-weighted composite samples from the outfall(s) listed at Item 1.a above.
- The permittee shall collect a second composite samples for use during 24-hour renewals of each dilution concentration for each test. The permittee must collect the composite samples such that the effluent samples are representative of any periodic episode of

chlorination, biocide usage or other potentially toxic substance discharged on an intermittent basis.

- The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 72 hours. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite sample. Samples shall be chilled to 6 degrees Centigrade during collection, shipping, and/or storage.
- If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions and the sample holding time are waived during that sampling period. However, the permittee must collect an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item 3 of this section.

### 3. REPORTING

- a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this section in accordance with the Report Preparation Section of EPA/821/R-02-013, or the most current publication, for every valid or invalid toxicity test initiated whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of PART III.C.3 of this permit. The permittee shall submit full reports upon the specific request of the Agency. For any test which fails, is considered invalid or which is terminated early for any reason, the full report must be submitted for agency review.
- b. A valid test for each species must be reported during each reporting period specified in PART I of this permit unless the permittee is performing a TRE which may increase the frequency of testing and reporting. Only ONE set of biomonitoring data for each species is to be recorded for each reporting period. The data submitted should reflect the LOWEST lethal and sub-lethal effects results for each species during the reporting period. All invalid tests, repeat tests (for invalid tests), and retests (for tests previously failed) performed during the reporting period must be attached for EPA review.
- c. The permittee shall submit the results of each valid toxicity test as follows below. Submit retest information, if required, clearly marked as such. Only results of valid tests are to be reported.
  - *Pimephales promelas* (Fathead Minnow)
    - (A) If the No Observed Effect Concentration (NOEC) for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TEM6C.
    - (B) Report the NOEC value for survival, Parameter No. TOM6C.

(C) Report the highest (critical dilution or control) Coefficient of Variation, Parameter No. TQM6C.

- *Daphnia pulex*

(A) If the NOEC for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TEM3D

(B) Report the NOEC value for survival, Parameter No. TOM3D

(C) Report the highest (critical dilution or control) Coefficient of Variation, Parameter No. TQM3D

d. Enter the following codes on the DMR for retests only:

- For retest number 1, Parameter 22415, enter a '1' if the NOEC for survival is less than the critical dilution; otherwise, enter a '0'
- For retest number 2, Parameter 22416, enter a '1' if the NOEC for survival is less than the critical dilution; otherwise, enter a '0'

## 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.

POLLUTANTS	MQL µg/l	POLLUTANTS	MQL µg/l
<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 PERMITS****A. GENERAL CONDITIONS****1. 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

Discharge Monitoring Report (DMR) results shall be electronically reported to EPA per 40 CFR 127.16. To submit electronically, access the NetDMR website at <https://netdmr.epa.gov>. Until approved for Net DMR, the permittee shall request temporary or emergency waivers from electronic reporting. To obtain the waiver, please contact: U.S. EPA - Region 6, Water

Enforcement Branch, New Mexico State Coordinator (6ECD-W), (214) 665-7179. If paper reporting is granted temporarily, 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 and copies to NMED as required. Duplicate copies of all other reports shall be submitted to NMED at the following address(es):

EPA:

Enforcement & Compliance Assurance Division  
Water Enforcement Branch (6ECD-W)  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street  
Dallas, TX 75202

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.

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 gathered and evaluated 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 have no personal knowledge that the information submitted is other than 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 non-domestic 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 "µg/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.

**NPDES PERMIT NO. NM0030848  
RESPONSE TO COMMENTS**

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

**APPLICANT:**

City of Santa Fe  
Buckman Direct Diversion  
341 Caja Del Rio Road  
Santa Fe, NM 87506

**ISSUING OFFICE:**

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

**PREPARED BY:**

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**PERMIT ACTION:** Final permit decision and response to comments received on the proposed NPDES permit publicly noticed on May 31, 2014.

**DATE PREPARED:** July 21, 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), NPDES (National Pollutant Discharge Elimination System), NMAC (New Mexico Administrative Code), NMED (New Mexico Environment Department), SWQB (Surface Water Quality Bureau), WET (Whole effluent toxicity) 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 July 18, 2014.

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

EPA made the following change to the draft NPDES permit publicly noticed on May 31, 2014:

1. WET sampling frequency has been changed from a 24-hr composite sample to a 12-hour composite sample

#### **STATE CERTIFICATION**

In a letter from James Hogan, Bureau Chief, SWQB, to William K. Honker, P.E., Director, Water Quality Protection Division (EPA) dated July 11, 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 THE CITY OF SANTA FE, BUCKMAN DIRECT DIVERSION**

**Comment No. 1:** Part I, Section A, “Whole Effluent Toxicity Testing”, Sample Type “24-Hr Composite” The permittee requested that one grab sample be collected for WET testing instead of the 24-hr composite as proposed in the draft permit. Historically, BDD intended to operate the Sediment Removal Facility on a continuous 24-hour basis. The permittee made this request based on the fact that it had operated its facility intermittently with 12-hour work shifts since its operation began on January 15, 2011. The permittee also stated that the retention time of the effluent is less than 24 hours, and the historic WET testing results do not indicate any variability in its effluent toxicity. The permittee also referred to the sampling recommendation in Section 8.3.4.2.1.1 of EPA document “Methods for Measuring the Acute Toxicity of Effluents and Receiving Water to Freshwater and Marine Organisms, “Fifth Edition, October 2002, and requested that the draft permit be revised to allow for one grab sample collected midway during effluent discharges of the 12 hour work shift of the Sediment Removal Facility.

**Response No. 1:** EPA understands the permittee’s concern and has revised the final permit to a 12-hour composite instead of the permittee’s requested grab sample. EPA notes that 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.