

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
1595 WYNKOOP STREET  
DENVER, COLORADO 80202-1129

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"),

**Four Corners Materials**

is authorized to discharge from the Bayfield Pit and Plant located in the NW 1/4 of Section 14U, Township 34N, Range 07W, latitude 37° 11.0'28.2" N and longitude 107°35'15.8"W, La Plata County, Colorado

to the **Los Pinos River**,

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein. Authorization for discharge is limited to those outfalls specifically listed in the permit.

This permit shall become effective **to be determined upon issuance**

This permit and the authorization to discharge shall expire at midnight, **to be determined upon issuance**

Signed this        day of

\_\_\_\_\_  
Authorized Permitting Official

Callie A. Videtich, Acting Assistant Regional Administrator  
Office of Partnerships and Regulatory Assistance

**No table of contents entries found.**

## 1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

### 1.1. Definitions.

The *30-day (and monthly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the permit. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.

The *7-day (and weekly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the permit. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.

*Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

*Composite samples* shall be flow proportioned. The composite sample shall, at a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours, nor more than twenty-four (24) hours. Acceptable methods for the preparation of composite samples are as follows:

- a. Constant time interval between samples, sample volume proportional to flow rate at the time of sampling;
- b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time of the first sample was collected may be used;
- c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
- d. Continuous collection of sample with sample collection rate proportional to flow rate.

*CWA* means the Clean Water Act (formerly referred to as either the Federal Water Pollution Act or the Federal Water Pollution Control Act Amendments of 1972), Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4. In this permit the CWA may be referred to as "the Act".

*Daily Maximum (Daily Max.)* is the maximum measured value for a pollutant discharged during a calendar day or any 24-hour period that reasonably represents a calendar day for purposes of sampling. For pollutants with daily maximum limitations expressed in units of mass (e.g., kilograms, pounds), the daily maximum is calculated as the total mass of pollutant discharged over the calendar day or representative 24-hour period. For pollutants with limitations expressed in other units of measurement (e.g., milligrams/liter, parts per billion), the daily maximum is calculated as the average of all measurements of the pollutant over the calendar day or representative 24-hour period. If only one measurement or sample is taken during a calendar day or representative 24-hour period, the single measured value for a pollutant will be considered the daily maximum measurement for that calendar day or representative 24-hour period.

*Daily Minimum (Daily Min.)* is the minimum value allowable in any single sample or instantaneous measurement collected during the course of a day.

*Director* means the Regional Administrator of EPA Region 8 or an authorized representative.

*EPA* means the United States Environmental Protection Agency.

*Grab sample*, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.

*Instantaneous measurement*, for monitoring requirements, is defined as a single reading, observation, or measurement.

*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.

*Sewage Sludge* is any solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary or advanced wastewater treatment processes; and a material derived from sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

*Storm Water* means storm water runoff, snow melt runoff, and surface runoff and drainage.

*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.

*Whole Effluent Toxicity, Acute* occurs when 50 percent or more mortality is observed for either species (see Part 1.3) at any effluent concentration. Mortality in the control must simultaneously be 10 percent or less for the effluent results to be considered valid.

- 1.2. Description of Discharge Point(s). The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under an NPDES permit is a violation of the Clean Water Act and could subject the person(s) responsible for such discharge to penalties under Section 309 of the Act.

Outfall

Serial Number(s)

Description of Discharge Point(s)

001

Any discharge from the settling pond serving the mining operations and site stormwater runoff.

### 1.3. Specific Limitations and Self-Monitoring Requirements

1.3.1. Effluent Limitations - Outfall 001. Effective immediately and lasting through the life of this permit, the quality of effluent discharged by the facility shall, at a minimum, meet the limitations as set forth below:

Effluent Characteristic	Effluent Limitation		
	30-Day Average <u>a/</u>	7-Day Average <u>a/</u>	Daily Maximum <u>a/</u>
Total Suspended Solids, mg/L	30	45	N/A
Oil and Grease, mg/L	N/A	N/A	10
Fecal Coliforms, no./100 mL	N/A	N/A	200
Aluminum (total recoverable), mg/L	N/A	N/A	0.75
The pH of the discharge shall not be less than 6.5 or greater than 9.0 at any time.			
There shall be no visible sheen from oil and grease in the receiving water or adjoining shoreline.			
There shall be no discharge of water which contacts solid or liquid wastes which are not required for the mining and processing of sand and gravel and the production of redi-mix concrete.			
There shall be no discharge of sanitary wastewaters from toilets or related facilities.			
No chemicals shall be added to the discharge unless prior written permission for the use of a specific chemical is granted by permit issuing authority. In granting such use, additional limitations and/or monitoring requirements may be imposed.			
There shall be no discharge of floating debris, scum or other surface materials in quantities sufficient to harm existing beneficial uses of the receiving water.			
Bulk storage structures for petroleum products and other chemicals shall have adequate protection so as to prevent any reasonable loss of the material from entering discharged waters or waters of the United States. Depending on the amount of oil stored, the permittee may need to prepare a Spill Prevention Control and Countermeasures Plan as required by 40CFR Part 112.			

a/ See Definitions, Part 1.1, for definitions.

1.3.2. Self-Monitoring Requirements - Outfall 001. As a minimum, upon the effective date of this permit, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge or overflow occurred.

Effluent Characteristic	Frequency	Sample Type <u>a/</u>
Total Flow, mgd <u>b/</u>	Weekly	Instantaneous
Total Suspended Solids, mg/L	Monthly	Grab
Total Dissolved Solids, mg/L	Quarterly	Grab
Aluminum	Quarterly	Grab
Fecal Coliforms, no./100 mL	Monthly	Grab
pH, units	Weekly	Grab
Oil and grease, visual <u>c/</u>	Daily	Visual <u>c/</u>

a/ See Definitions, Part 1.1, for definition of terms.

b/ Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate (in million gallons per day) during the reporting period and the maximum flow rate observed (in mgd) shall be reported.

c/ A daily visual observation is required. If a visible sheen is detected, a grab sample shall be taken and analyzed immediately. The concentration of oil and grease shall not exceed 10 mg/L in any sample.

The permittee must notify the EPA Region 8 office of any future expansion of mining. Adding additional outfalls(s) would require amending the permit application and public notice of the permit modification.

1.4. Stormwater Pollution Prevention Plan. A current stormwater pollution prevention plan (SWPPP) shall be completed as a condition of this permit. The SWPPP shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with industrial activity from this facility. In addition, the SWPPP shall describe and insure the implementation of practices which are used to reduce the pollutants in stormwater discharges and to ensure compliance with the terms and conditions of this permit. The permittee shall implement all provisions of the SWPPP as a condition of this permit. SWPPP may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under section 311 of the CWA or Best Management Practices (BMP) Programs otherwise required by an NPDES permit for the facility as long as such requirement is incorporated into the SWPPP.

1.4.1. Recordkeeping Requirements and Plan Modifications

1.4.1.1 A current copy of the SWPPP shall be maintained on-site at the facility in accordance with Part 2.7 of this permit.

1.4.1.2 The permittee shall make the SWPPP available upon request by the Director, or an authorized representative of the Director.

1.4.1.3 The Director, or authorized representative, may notify the permittee at any time that the SWPPP does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which

provisions of the plan requires modifications in order to meet the minimum requirements of this Part.

- 1.4.1.4 Within 30 days of a notification by EPA Region 8 of a plan modification requirement, or when making any other plan changes, the permittee must submit the modification to EPA Region 8, accompanied by a certification statement in accordance with Part 4.7.4 of this permit. EPA may review the plan changes and request additional modifications as necessary to ensure a reduction of pollutants entering waters of the United States is achieved.
- 1.4.1.5 **Keeping Plans Current.** The permittee shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants in stormwater, or in otherwise achieving the general objectives of controlling pollutants in stormwater discharges associated with industrial activity.
- 1.4.2. **Stormwater Pollution Prevention Plan Contents.** The SWPPP shall include, at a minimum, the following items:
- 1.4.2.1. **Pollution Prevention Team.** The plan shall identify a specific individual or individuals within the facility organization as members of a stormwater Pollution Prevention Team that are responsible for developing the stormwater pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's stormwater pollution prevention plan.
- 1.4.2.2. **Description of Potential Pollutant Sources.** The plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to stormwater discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. The plan shall identify all activities and significant materials which may potentially be significant pollutant sources. The plan shall include, at a minimum:
- 1.4.2.2.1. A site map indicating an outline of the portions of the drainage area of each stormwater outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in stormwater runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas, storage areas, outdoor chemicals, explosives storage areas, overburden, and location(s) of reclaimed areas.
- 1.4.2.2.2. For each area of the facility that generates stormwater discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in stormwater discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with stormwater; and history of significant leaks or spills of toxic or

hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

- 1.4.2.2.3. Inventory of Exposed Materials. An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to stormwater between the time of 3 years prior to the date of the issuance of this permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with stormwater runoff between the time of 3 years prior to the date of the issuance of this permit and the present; the location and a description of existing structural and non-structural control measures to reduce pollutants in stormwater runoff; and a description of any treatment the stormwater receives.
- 1.4.2.2.4. Spills and Leaks. A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a stormwater conveyance at the facility between the time of 3 years prior to the date of the issuance of this permit and the present. Such list shall be updated as appropriate during the term of the permit.
- 1.4.2.2.5. Sampling Data. A summary of existing discharge sampling data describing pollutants in stormwater discharges from the facility, including a summary of sampling data collected during the term of this permit.
- 1.4.2.2.6. Risk Identification and Summary of Potential Pollutant Sources. A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified. The narrative description must include application rates and procedures for storage of any chemicals used for deicing or dust suppression.
- 1.5. Stormwater Management Controls. Each facility covered by this permit shall develop a description of stormwater management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of stormwater management controls shall address the following minimum components, including a schedule for implementing such controls:
- 1.5.1. Good Housekeeping. Good housekeeping requires the maintenance of areas which may contribute pollutants to stormwater discharges in a clean, orderly manner.
- 1.5.2. Preventive Maintenance. A preventive maintenance program shall involve timely inspection and maintenance of stormwater management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.
- 1.5.3. Spill Prevention and Response Procedures. Areas where potential spills which can contribute pollutants to stormwater discharges can occur, and their accompanying drainage points shall be identified clearly in the stormwater pollution prevention plan. Where appropriate, specifying material



handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a cleanup should be available to personnel.

- 1.5.4. Employee Training. Employee training programs shall inform personnel responsible for implementing activities identified in the stormwater pollution prevention plan or otherwise responsible for stormwater management at all levels of responsibility of the components and goals of the stormwater pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.
- 1.5.5. Recordkeeping and Internal Reporting Procedures. A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of stormwater discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.
- 1.5.6. Sediment and Erosion Control. The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.
- 1.5.7. Management of Runoff. The plan shall contain a narrative consideration of the appropriateness of traditional stormwater management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage stormwater runoff in a manner that reduces pollutants in stormwater discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. Appropriate measures may include: vegetative swales and practices, reuse of collected stormwater (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.
- 1.6. Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall provide:
  - 1.6.1. Areas contributing to a stormwater discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed.
  - 1.6.2. Structural stormwater management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly.
  - 1.6.3. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made. Based on the results of the inspection, the description of potential pollutant sources and pollution prevention measures and controls identified in the plan in accordance with Part 1.4.2.2 of this permit shall be revised as appropriate within 2 weeks of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the inspection.
  - 1.6.4. A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the stormwater pollution prevention plan, and actions taken in accordance with Part 1.6.3. shall be made and retained as part of the stormwater pollution prevention plan for at least one year after coverage under this permit terminates.

The report shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the stormwater pollution prevention plan and this permit. The report shall be signed in accordance with Part 4.7. (signatory requirements) of this permit.

#### 1.7. Stormwater Monitoring and Reporting Requirements.

- 1.7.1. The permittee must perform and document a quarterly visual examination of a stormwater discharge from Outfall 001 and those areas identified as potential pollutant sources defined in Part 1.4.2.2. The visual monitoring must be made during daylight hours. If no storm event resulted in runoff from the facility during a monitoring quarter, you are excused for that quarter provided you document in your monitoring records that no runoff occurred. You must sign and certify the documentation in accordance with Part 4.7.
- 1.7.1.1. Quarterly visual examinations must be made of samples collected within the first 30 minutes (or as soon as practicable, but not to exceed 1 hour) of when runoff or snowmelt begins discharging from your facility. The examination must document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution. No analytical tests are required to be performed on the samples.
- 1.7.1.2. Quarterly visual examinations must be performed on discharges resulting from a storm event that is greater than 0.1 inches in magnitude and occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event.
- 1.7.1.3. A quarterly visual examination report must be maintained on site with the SWPPP. The report must include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the stormwater discharge, other obvious indicators of stormwater pollution, and probable sources of any observed stormwater contamination which may or may not be discharging from the site.
- 1.7.1.4. In addition to the parameters listed in Part 1.3.1, the permittee shall also record the date and duration of the storm event(s) sampled, rainfall measurements or estimates (in inches) that generated the storm related discharge, the duration between the storm event sampled and the previous measurable storm event (0.1 inch rainfall) storm event, and an estimate or measurement of the total volume (in gallons) discharged during the storm event.
- 1.7.2. Results collected from monitoring stormwater related discharge events in accordance with Parts 1.7.1 shall be reported on the Discharge Monitoring Report (DMR) form due for the six month period in which the discharge occurred. Additional information required but not specified on the DMR shall be submitted as attachment to the DMR for that six month period. If no discharge occurred during the entire monitoring period, the permittee shall state on the DMR that no discharge or overflow occurred. Specific instructions for completing the DMR form are found in Part 2.4.
- 1.8. Releases of Stormwater in Excess of Reportable Quantities. The discharge of hazardous substances or oil in the stormwater discharge(s) from a facility shall be prevented or minimized in accordance with the applicable stormwater pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117 and 40 CFR Part 302. Except as provided in Part 1.8.4 below (multiple anticipated discharges), where a release containing a hazardous substance in an amount equal to or greater than a reportable quantity established either under 40 CFR 110, 40 CFR 117 or 40 CFR Part 302, occurs during a 24-hour period.
- 1.8.1. The discharger is required to notify the National Response Center (NRC) at (800) 424-8802, in accordance with the requirements of 40 CFR 110, 40 CFR 117 and 40 CFR Part 302 as soon as he or she has knowledge of the discharge; and

- 1.8.2. The stormwater pollution prevention plan (SWPPP) of this permit must be modified within 14 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release.
- 1.8.3. In addition, the SWPPP must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the SWPPP must be modified where appropriate.
- 1.8.4. Multiple Anticipated Discharges. Facilities which have more than one anticipated discharge per year containing the same hazardous substance in an amount equal to or in excess of a reportable quantity established under 40 CFR Part 110, 117 or 40 CFR Part 302, which occurs during a 24-hour period, where the discharge is caused by events occurring within the scope of the relevant operating system shall:
  - 1.8.4.1. Submit notifications in accordance with Part 1.8.1 for the first such release that occurs during a calendar year; and
  - 1.8.4.2. Provide in the stormwater pollution prevention plan a written description of the dates on which all such releases occurred, the type and estimate of the amount of material released, and the circumstances leading to the release. In addition, the plan must be reviewed to identify measures to prevent or minimize such releases and the plan must be modified where appropriate.

## 2. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- 2.1. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Part 1 shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use-disposal practice.
- 2.2. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Sludge monitoring procedures shall be those specified in 40 CFR 503, or as specified in the permit.
- 2.3. Penalties for Tampering. The Act provides that any person who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or by both. Second conviction is punishable by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.
- 2.4. Reporting of Monitoring Results. Effluent monitoring results obtained during the previous (3) (three months shall be summarized and reported on **one** Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, "no discharge" shall be reported. Until further notice, sludge monitoring results may be reported in the testing laboratory's normal format (there is no EPA standard form at this time), but should be on letter size pages. Whole effluent toxicity (biomonitoring) results must be reported on the most recent version of EPA Region 8's Guidance For Whole Effluent Reporting. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part 4), and submitted to the EPA Region 8 Policy, Information Management & Environmental Justice Program and the Southern Ute Indian Tribe at the addresses given below:

original to: U.S. EPA, Region 8

Policy, Information Management & Environmental Justice Program (8ENF-PJ)  
Attention: Director  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

copy to: Southern Ute Indian Tribe  
Tribal Environmental Programs  
P.O. Box 737  
Ignacio, Colorado 81137

Attention: Water Quality Department

- 2.5. 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 136, 40 CFR 503, 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 DMR. Such increased frequency shall also be indicated.
- 2.6. Records Contents. Records of monitoring information shall include:
- 2.6.1. The date, exact place, and time of sampling or measurements;
  - 2.6.2. The initials or name(s) of the individual(s) who performed the sampling or measurements;
  - 2.6.3. The date(s) analyses were performed;
  - 2.6.4. The time(s) analyses were initiated;
  - 2.6.5. The initials or name(s) of individual(s) who performed the analyses;
  - 2.6.6. References and written procedures, when available, for the analytical techniques or methods used; and,
  - 2.6.7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.
- 2.7. 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 three years from the date of the sample, measurement, report or application. Records of monitoring required by this permit related to sludge use and disposal activities must be kept at least five years (or longer as required by 40 CFR 503). This period may be extended by request of the Director at any time. Data collected on site, data used to prepare the DMR, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained on site.
- 2.8. Twenty-four Hour Notice of Noncompliance Reporting.
- 2.8.1. The permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The report shall be made to the EPA, Region 8, Site Assessment/Emergency Response Program.
  - 2.8.2. The following occurrences of noncompliance shall be reported by telephone to the EPA, Region 8, NPDES Enforcement Unit at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time) and the

Southern Ute Tribe at (970)563-0100 (8:00 a.m. - 4:30 p.m. Mountain Time) by the first workday following the day the permittee became aware of the circumstances:

- 2.8.2.1. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part 3.7, Bypass of Treatment Facilities.);
  - 2.8.2.2. Any upset which exceeds any effluent limitation in the permit (See Part 3.8, Upset Conditions.); or,
  - 2.8.2.3. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit to be reported within 24 hours.
- 2.8.3. A written submission shall also be provided to the USEPA, Office of Enforcement, Compliance and Environmental Justice, and to the Southern Ute Tribe within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
- 2.8.3.1. A description of the noncompliance and its cause;
  - 2.8.3.2. The period of noncompliance, including exact dates and times;
  - 2.8.3.3. The estimated time noncompliance is expected to continue if it has not been corrected; and,
  - 2.8.3.4. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- 2.8.4. The Director may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under Part 2.8.2 above, if the incident has been orally reported in accordance with the requirements of Part 2.8.2.
- 2.8.5. Reports shall be submitted to the addresses in Part 2.4, Reporting of Monitoring Results.
- 2.9. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part 2.4 are submitted. The reports shall contain the information listed in Part 2.8.3.
- 2.10. Inspection and Entry. The permittee shall allow the Regional Administrator, or authorized representative (including an authorized contractor acting as a representative of the Administrator) upon presentation of credentials and other documents as may be required by law, to:
- 2.10.1. 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;
  - 2.10.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
  - 2.10.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,
  - 2.10.4. 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.

### 3. COMPLIANCE RESPONSIBILITIES

- 3.1. Duty to Comply. The permittee must comply with all conditions of this permit. Any failure to comply with the permit may constitute a violation of the Clean Water Act and may be grounds for enforcement

action, including, but not limited to permit termination, revocation and reissuance, modification, or denial of a permit renewal application. The permittee shall give the director advance notice of any planned changes at the permitted facility that will change any discharge from the facility, or of any activity that may result in failure to comply with permit conditions.

- 3.2. Penalties for Violations of Permit Conditions. The Clean Water Act provides for specified civil and criminal monetary penalties for violations of its provisions. However, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires EPA to adjust the civil monetary penalties for inflation on a periodic basis. EPA previously adjusted its civil monetary penalties on December 31, 1996 (61 Fed. Reg. 69359-69365), with technical corrections and additions published on March 20, 1997 (62 Fed. Reg. 13514-13517), June 27, 1997 (62 Fed. Reg. 35037-35041) and February 13, 2004 (69 Fed. Reg. 7121-7127). On December 11, 2008 (73 Fed. Reg. 75340-75346) EPA once again adjusted its civil monetary penalties. The civil and criminal penalties, as of January 12, 2009, for violations of the Act (including permit conditions) are given below:
- 3.2.1. Any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$37,500 per day for each violation.
- 3.2.2. Any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or 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 for not more than 2 years, or both.
- 3.2.3. Any person who *knowingly* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or 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 for not more than 6 years, or both.
- 3.2.4. Any person who *knowingly* violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or 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 for 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.
- 3.2.5. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Where an administrative enforcement action is brought for a Class I civil penalty, the assessed penalty may not exceed \$16,000 per violation, with a maximum amount not to exceed \$37,500. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed

\$16,000 per day for each day during which the violation continues, with the maximum amount not to exceed \$177,500.

- 3.3. Need to Halt or Reduce Activity 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.
- 3.4. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- 3.5. Proper Operation and Maintenance. 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 the permittee to 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 back-up 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 the permit. However, the permittee shall operate, at a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.
  - 3.5.1 The permittee shall, as soon as reasonable and practicable, but no later than six (6) months after the effective date of this permit, do the following as part of the operation and maintenance program for the wastewater treatment facility:
    - 3.5.1.1. Have a current O & M Manual(s) that describes the proper operational procedures and maintenance requirements of the wastewater treatment facility;
    - 3.5.1.2. Have the O & M Manual(s) readily available to the operator of the wastewater treatment facility and require that the operator become familiar with the manual(s) and any updates;
    - 3.5.1.3. Have a schedule(s) for routine operation and maintenance activities at the wastewater treatment facility; and,
    - 3.5.1.4. Require the operator to perform the routine operation and maintenance requirements in accordance with the schedule(s).
  - 3.5.2. The permittee shall maintain a daily log in a **bound notebook(s)** containing a summary record of all operation and maintenance activities at the wastewater treatment facility. At a minimum, the notebook shall include the following information:
    - 3.5.2.1. Date and time;
    - 3.5.2.2. Name and title of person(s) making the log entry;
    - 3.5.2.3. Name of the persons(s) performing the activity;
    - 3.5.2.4. A brief description of the activity; and,
    - 3.5.2.5. Other information, as appropriate.

The permittee shall maintain the notebook in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the Southern Ute Tribe.

- 3.6. Removed Substances. Collected screenings, grit, solids, sludge, or other pollutants removed in the course of treatment shall be buried or disposed in a manner consistent with all applicable federal and tribal regulations (i.e., 40 CFR 257, 40 CFR 258, 40 CFR 503) and in a manner so as to prevent any pollutant from entering any waters of the United States or creating a health hazard. **In addition, the use and/or disposal of sewage sludge shall be done under the authorization of an NPDES permit issued for the use and/or disposal of sewage sludge by the appropriate NPDES permitting authority for sewage sludge.** Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the United States.
- 3.7. Bypass of Treatment Facilities.
- 3.7.1. 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 3.7.2 and 3.7.3.
- 3.7.2. Notice:
- 3.7.2.1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass to the USEPA, Technical Enforcement Program, and the Southern Ute Tribe.
- 3.7.2.2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part 2.8, Twenty-four Hour Noncompliance Reporting, to the USEPA, Technical Enforcement Program, and the Southern Ute Tribe.
- 3.7.3. Prohibition of bypass.
- 3.7.3.1. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass, unless:
- 3.7.3.1.1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- 3.7.3.1.2. 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 judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
- 3.7.3.1.3. The permittee submitted notices as required under Part 3.7.2.
- 3.7.3.2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part 3.7.3.1.
- 3.8. Upset Conditions
- 3.8.1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part 3.8.2 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 (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).



- 3.8.2. 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:
- 3.8.2.1. An upset occurred and that the permittee can identify the cause(s) of the upset;
  - 3.8.2.2. The permitted facility was at the time being properly operated;
  - 3.8.2.3. The permittee submitted notice of the upset as required under Part 2.8, Twenty-four Hour Notice of Noncompliance Reporting; and,
  - 3.8.2.4. The permittee complied with any remedial measures required under Part 3.4, Duty to Mitigate.
- 3.8.3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.
- 3.9. Toxic Pollutants. 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 establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- 3.10. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director as soon as the permittee knows of, or has reason to believe:
- 3.10.1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
    - 3.10.1.1. One hundred micrograms per liter (100 ug/L);
    - 3.10.1.2. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter 500 ug/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
    - 3.10.1.3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,
    - 3.10.1.4. The level established by the Director in accordance with 40 CFR 122.44(f).
  - 3.10.2. That any activity has occurred or will occur which would result in any discharge, on a non-routine 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":
    - 3.10.2.1. Five hundred micrograms per liter (500 ug/L);
    - 3.10.2.2. One milligram per liter (1 mg/L) for antimony;
    - 3.10.2.3. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,
    - 3.10.2.4. The level established by the Director in accordance with 40 CFR 122.44(f).

#### 4. GENERAL REQUIREMENTS

- 4.1. Planned Changes. 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:
  - 4.1.1. The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit; or,
  - 4.1.2. There are any planned substantial changes to the existing sewage sludge facilities, the manner of its operation, or to current sewage sludge management practices of storage and disposal. The permittee shall give the Director notice of any planned changes at least 30 days prior to their implementation.
  - 4.1.3. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.
- 4.2. 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.
- 4.3. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- 4.4. 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 should be submitted at least 180 days before the expiration date of this permit.
- 4.5. 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.
- 4.6. Other Information. When 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 any report to the Director, it shall promptly submit such facts or information.
- 4.7. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
  - 4.7.1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
  - 4.7.2. 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:
    - 4.7.2.1. The authorization is made in writing by a person described above and submitted to the Director; and,
    - 4.7.2.2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

- 4.7.3. **Changes to authorization.** If an authorization under Part 4.7.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part 4.7.2 must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 4.7.4. **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."
- 4.8. **Penalties for Falsification of Reports.** The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- 4.9. **Availability of Reports.** Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.
- 4.10. **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.
- 4.11. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, tribal or local laws or regulations.
- 4.12. **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.
- 4.13. **Transfers.** This permit may be automatically transferred to a new permittee if:
- 4.13.1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date;
- 4.13.2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
- 4.13.3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part 4.13.2.
- 4.14. **Permittees in Indian Country.** EPA is issuing this permit pursuant to the Agency's authority to implement the Clean Water Act NPDES program in Indian country, as defined at 18 U.S.C. 1151.

- 4.15. Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:
- 4.15.1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
- 4.15.2. Wasteload Allocation: A wasteload allocation is developed and approved by the Southern Ute Tribe and/or EPA for incorporation in this permit.
- 4.15.3. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.
- 4.16. Toxicity Limitation-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity limitations if whole effluent toxicity is detected in the discharge.