UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

NPDES PERMIT NO. NN0029386

In compliance with the provisions of the Clean Water Act ("CWA") (Public Law 92-500, as amended, 33 U.S.C. 1251 et seq.), the following discharger is authorized to discharge from the identified facility at the outfall location(s) specified below, in accordance with the effluent limits, monitoring requirements, and other conditions set forth in this permit. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

Discharger Name	Chevron Mining, Inc.
Discharger Address	6001 Bollinger Canyon Road, C-2144 San Ramon, CA 94583
Facility Name	McKinley Mine
Facility Location Address	Highway 264, 24 miles northwest of Gallup, NM
Facility Rating	Minor

Outfall Number	General Type of Waste Discharged	Outfall Latitude	Outfall Longitude	Receiving Water
67 stormwater outfalls numbered 003 thru 076	Stormwater from Western Alkaline Coal Mining Reclamation Areas	From 35º17'90.27" N to 35º43'35.23" N	From 108º53'1.34" W to 109º2'6.90" W	Various washes leading to the Puerco River

This permit was issued on:	June 8, 2017
This permit shall become effective on:	July 1, 2017
This permit shall expire at midnight on:	June 30 2022

In accordance with 40 CFR 122.21(d), the discharger shall submit a new application for a permit at least 180 days before the expiration date of this permit, unless permission for a date no later than the permit expiration date has been granted by the Director.

Signed this 9th day of June, 2017, for the Regional Administrator.

/s/

Tomás Torres, Director
Water Division

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Part I. EFFLUENT LIMITS AND MONITORING REQUIREMENTS

A. Effluent Limits and Monitoring Requirements

1. Effluent Limits – Outfalls Number 003 thru 006, 009 thru 024, 026 thru 033, 035 thru 042, 044 thru 061, 063 thru 065, 068 thru 072, 075 thru 077, and 079 thru 084 (outfalls subject to change thru future permit modifications as site reclamation progresses).

   The discharger is authorized to discharge treated stormwater from Western Alkaline Coal Mining Reclamation Areas, in compliance with the effluent limits and monitoring requirements specified in Table 1 and elsewhere in this permit. Compliance with these requirements is monitored at Monitoring Locations located at each of the outfalls, as shown on Attachment D, and compliance with sediment management plans and modeling as discussed below.

   To comply with the sediment monitoring requirements for Western Alkaline Coal Mining reclamation areas, the permittee shall:

   a. Within 90 days of permit issuance, submit a site-specific Sediment Control Plan (SCP) for EPA approval. The SCP must demonstrate that implementation of the Sediment Control Plan will result in average annual sediment yields that will not be greater than the sediment yield levels from pre-mined, undisturbed conditions. The Sediment Control Plan shall, at a minimum, identify Best Management Practices (BMPs), including design specifications, construction specifications, maintenance schedules, criteria for inspection, and expected performance and longevity of the BMPs.

   b. As part of the Sediment Control Plan, and to account for changes in impoundments and outfalls which have occurred since the most recent supplement to the permit application, the discharger shall propose a representative sampling plan based on the collection of grab samples from all outfalls operating during storm events that includes monitoring provisions as necessary to address each of the parameters identified in Table 1.

   c. Demonstrate, using watershed models, that the implementation of the Sediment Control Plan will result in average annual sediment yields that will not be greater than the sediment yield levels from pre-mined, undisturbed conditions. The watershed model must be the same model that is being used to acquire the permittee's SMCRA permit.

   d. Design, implement, and maintain the BMPs in the manner specified in the approved Sediment Control Plan, and continue implementing and maintaining these BMPs (and any additional BMPs which may become necessary) throughout the term of this permit.

e. Revise the Sediment Control Plan as necessary to incorporate new areas or changes in the status of existing areas. As existing outfalls defined in this permit are reclaimed and discharge ceases from those outfalls, the approved Sediment Control Plan shall be updated to incorporate the changes. Submission of updates to the Sediment Control Plan should be sent to EPA as outfalls are changed or eliminated, but not less frequently than twice per calendar year on the 28th day following the end of the 2nd and 4th calendar quarters i.e. July 28 and January 28. These updates shall be submitted to the same EPA contact which receives the facility's DMRs, which may be submitted as attachments thru E-DMR. A revised Sediment Control Plan and revised watershed model must be submitted to EPA and approved by EPA before it becomes effective. Revisions to the Sediment Control Plan must meet all requirements contained at 40 CFR Part 434.82, and 100% of the drainage area to an outfall that has been disturbed by mining must meet the definition of "western alkaline reclamation, brushing and grubbing, topsoil stockpiling, and regraded areas" (as defined at 40 CFR 434.80) to be considered for coverage. EPA's approval of an updated Sediment Control Plan and reclassification of an existing outfall to a reclaimed area will be considered a minor modification to the permit as described in Attachment A (Standard Permit Conditions), section C.5 of this permit.

f. Conduct reclamation inspections at least quarterly within the drainage areas associated with the Sediment Control Plan to verify implementation of the Sediment Control Plan. Each reclamation inspection report shall include, at a minimum, the following items:

(1) The personnel who conduct the inspection.

(2) Date(s) on which the inspection was performed.

(3) A written summary of major observations, including observations of no deficiency

(4) Actions that should be taken to correct noted deficiencies.

(5) Photodocumentation of findings.

(6) Signature of the inspector.

g. Provide an annual Sediment Control Plan Report documenting that the facility has met the requirements set forth in this section. The first annual report shall be submitted by August 1, 2017.

2. For all discharges onto Navajo Nation lands (as of the time of this writing, outfalls 003, 006, 009 thru 024, 026 thru 028, 051 thru 063, 066, 067, and 076; see column "NM or NN" in attachment D), the permittee shall comply with all applicable Navajo Nation Water Quality Standards, which are incorporated herein by reference. This includes, but is not limited to, the stipulation that "All Waters of the Navajo Nation shall be free of toxic pollutants from other than natural sources in amounts,

concentrations, or combinations which affect the propagation of fish or which are toxic to humans, livestock or other animals…"

3. For all discharges to waters of the State of New Mexico (as of the date of this permit, outfalls 004, 005, 029 thru 033, 035 thru 042, 044 thru 050, 064, 065, 068 thru 072, and 075; see column "NM or NN" in attachment D), the permitee shall comply with all applicable New Mexico Water Quality Standards, which are also incorporated herein by reference. This includes, but is not limited to, the following stipulations:

4. **A. Bottom Deposits and Suspended or Settleable Solids:**
(1) Surface waters of the state shall be free of water contaminants including fine sediment particles (less than two millimeters in diameter), precipitates or organic or inorganic solids from other than natural causes that have settled to form layers on or fill the interstices of the natural or dominant substrate in quantities that damage or impair the normal growth, function or reproduction of aquatic life or significantly alter the physical or chemical properties of the bottom.
(2) Suspended or settleable solids from other than natural causes shall not be present in surface waters of the state in quantities that damage or impair the normal growth, function or reproduction of aquatic life or adversely affect other designated uses.
F. Toxic Pollutants:
(1) Except as provided in 20.6.4.16 NMAC, surface waters of the state shall be free of toxic pollutants from other than natural causes in amounts, concentrations or combinations that affect the propagation of fish or that are toxic to humans, livestock or other animals, fish or other aquatic organisms, wildlife using aquatic environments for habitation or aquatic organisms for food, or that will or can reasonably be expected to bioaccumulate in tissues of fish, shellfish and other aquatic organisms to levels that will impair the health of aquatic organisms or wildlife or result in unacceptable tastes, odors or health risks to human consumers of aquatic organisms.
J. Turbidity:
Turbidity attributable to other than natural causes shall not reduce light transmission to the point that the normal growth, function or reproduction of aquatic life is impaired or that will cause substantial visible contrast with the natural appearance of the water. Activities or discharges shall not cause turbidity to increase more than 10 NTU over background turbidity when the background turbidity, measured at a point turbidity is more than 50 NTU. However, limited-duration turbidity increases caused by dredging, construction or other similar activities may be allowed provided all practicable turbidity control techniques have been applied and all appropriate permits, certifications and approvals have been obtained.
K. Total Dissolved Solids (TDS):
TDS attributable to other than natural causes shall not damage or impair the normal growth, function or reproduction of animal, plant or aquatic life. TDS shall be measured by either the "calculation method" (sum of constituents) or the filterable residue method. Approved test procedures for these determinations are set forth in 20.6.4.14 NMAC.
Furthermore, Water Quality Standards provisions have been developed by the Colorado River Salinity Control Forum. These standards and NPDES implementation provisions are discussed in the 2014 Review of Water Quality

Standards for Salinity- Colorado River System. This permit requires collection of monitoring data for TDS in order to assist in evaluation of TDS discharges from the facility and potential future application of Salinity Control Forum Standards provisions. Additional information is available at http://coloradoriversalinity.org/docs/2014 Final REVIEW - complete.pdf .

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M. Biological integrity:

Surface waters of the state shall support and maintain a balanced and integrated community of aquatic organisms with species composition, diversity and functional organization comparable to those of natural or minimally impacted water bodies of a similar type and region. [20.6.4.13 NMAC - Rp 20 NMAC 6.1.1105, 10-12-00; A, 10-11-02; Rn, 20.6.4.12 NMAC, 05-23-05; A, 05-23-05; A, 12-01-10]

N. Additional Annual Monitoring

See Part III of this permit (Special Conditions), section C, for additional monitoring required on an annual basis by New Mexico.

B. Table 1. Effluent Limits and Monitoring Requirements - All Outfalls

Parameter	Maximum Allowable Discharge Limits Concentration and Loading				Monitoring Requirements[2]	
	Average Monthly [1]	Average Weekly	Maximum Daily	Units	Frequency[3]	Sample Type
Flow rate	[2]	—	[2]	MGD	Continuous	Calculated[4]
Hardness	[2]	—	[2]	mg $CACO_3$ / L	As Specified in an approved SCP	Grab
pH	Within the range of 6.5 to 9.0 at all times (Navajo Nation receiving waters), or greater than 6.0 at all times (New Mexico receiving waters).[5]			S.U.	As Specified in an approved SCP	Grab
Total Suspended Solids	[2]	—	[2]	mg/L	As Specified in an approved SCP	Grab
Total Dissolved Solids	[2]	—	[2]	mg/L	As Specified in an approved SCP	Grab
Iron (total)	[2]	—	[2]	mg/L	As Specified in an approved SCP	Grab
Oil & Grease	[2]	—	[2]	mg/L	As Specified in an approved SCP	Grab
Alpha Radiation	[2]	—	[2]	pCu/L	As Specified in an approved SCP	Grab
Aluminum (total)	[2]	—	[2]	mg/L	As Specified in an approved SCP	Grab
Selenium	[2]	—	[2]	mg/L	As Specified in an approved SCP	Grab
Cyanide (total)	[2]	—	[2]	mg/L	As Specified in an approved SCP	Grab

(1) In calculating and reporting the average monthly concentration when the pollutant is not detected, assign zero to the non-detected sample result if the pollutant was not detected for all monitoring periods in the prior twelve months. If the pollutant was detected in at least one monitoring period in the prior twelve months, then assign each non-detected sample result a value that is equal to one half of the detection limit for the purposes of calculating averages.

(2) No effluent limits are set at this time, but monitoring and reporting is required.
(3) Samples shall be taken in accordance with the sampling plan proposed in the SCP.
(4) Calculation is to determine total flow in gallons for each discharge and duration of discharge, as distinguished for each outfall.
(5) pH limits are based, respectively, on Navajo Nation water quality standards (§206 C) and, in New Mexico, the technology-based Effluent Limit Guideline (ELG) applicability criteria for the Western Alkaline Coal Mining subcategory (40 CFR §434.81(b)(1))

C. Sampling

1. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

2. If the discharge is intermittent rather than continuous, then on the first day of each such intermittent discharge, the permittee shall monitor and record data for all the parameters listed in the monitoring requirements, after which the frequencies of analysis listed in the monitoring requirements shall apply for the duration of each such intermittent discharge. The permittee is not required to take effluent samples when there is no discharge.

D. General Monitoring and Reporting

1. All monitoring shall be conducted in accordance with 40 CFR 136 test methods, unless otherwise specified in this permit. For influent and effluent analyses required in this permit, the permittee shall utilize 40 CFR 136 test methods with MDLs and MLs that are lower than the effluent limits in this permit. For parameters without an effluent limit, the permittee must use an analytical method at or below the level of the applicable water quality criterion for the measured pollutant or the amount of the pollutant is high enough that the method detects and quantifies the level of pollutant in the discharge. If all MDLs or MLs are higher than these effluent limits or criteria concentrations, then the permittee shall utilize the test method with the lowest MDL or ML. In this context, the permittee shall ensure that the laboratory utilizes a standard calibration where the lowest standard point is equal to or less than the ML. Influent and effluent analyses for metals shall measure "total recoverable metal", except as provided under 40 CFR 122.45(c).

2. As an attachment to the first DMR, the permittee shall submit, for all parameters with monitoring requirements specified in this permit:

   a. The test method number or title and published MDL or ML,

   b. The preparation procedure used by the laboratory,

   c. The laboratory's MDL for the test method computed in accordance with Appendix B of 40 CFR 136,

   d. The standard deviation (S) from the laboratory's MDL study,

   e. The number of replicate analyses (n) used to compute the laboratory's MDL, and

f. The laboratory's lowest calibration standard.

As part of each DMR submittal, the permittee shall certify that there are no changes to the laboratory's test methods, MDLs, MLs, or calibration standards. If there are any changes to the laboratory's test methods, MDLs, MLs, or calibration standards, these changes shall be summarized in an attachment to the subsequent DMR submittal.

3. The permittee shall develop a Quality Assurance ("QA") Manual for the field collection and laboratory analysis of samples. The purpose of the QA Manual is to assist in planning for the collection and analysis of samples and explaining data anomalies if they occur. At a minimum, the QA Manual shall include the following:

   a. Identification of project management and a description of the roles and responsibilities of the participants; purpose of sample collection; matrix to be sampled; the analytes or compounds being measured; applicable technical, regulatory, or program-specific action criteria; personnel qualification requirements for collecting samples;

   b. Description of sample collection procedures; equipment used; the type and number of samples to be collected including QA/Quality Control ("QC") samples; preservatives and holding times for the samples (see 40 CFR 136.3); and chain of custody procedures;

   c. Identification of the laboratory used to analyze the samples; provisions for any proficiency demonstration that will be required by the laboratory before or after contract award such as passing a performance evaluation sample; analytical method to be used; MDL and ML to be reported; required QC results to be reported (e.g., matrix spike recoveries, duplicate relative percent differences, blank contamination, laboratory control sample recoveries, surrogate spike recoveries, etc.) and acceptance criteria; and corrective actions to be taken in response to problems identified during QC checks; and

   d. Discussion of how the permittee will perform data review, report results, and resolve data quality issues and identify limits on the use of data.

4. Throughout all field collection and laboratory analyses of samples, the permittee shall use the QA/QC procedures documented in their QA Manual. If samples are tested by a contract laboratory, the permittee shall ensure that the laboratory has a QA Manual on file. A copy of the permittee's QA Manual shall be retained on the permittee's premises and available for review by regulatory authorities upon request. The permittee shall review its QA Manual annually and revise it, as appropriate.

5. Samples collected during each month of the reporting period must be reported on Discharge Monitoring Report forms, as follows:

   a. For a *maximum daily* permit limit or monitoring requirement when one or more samples are collected during the month, report either:

The *maximum value*, if the maximum value of all analytical results is greater than or equal to the ML; or
NODI (Q), if the maximum value of all analytical results is greater than or equal to the laboratory's MDL, but less than the ML; or
NODI (B), if the maximum value of all analytical results is less than the laboratory's MDL.

b. For an *average weekly* or *average monthly* permit limit or monitoring requirement when only one sample is collected during the week or month, report either:

The *maximum value*, if the maximum value of all analytical results is greater than or equal to the ML; or
NODI (Q), if the maximum value of all analytical results is greater than or equal to the laboratory's MDL, but less than the ML; or
NODI (B), if the maximum value of all analytical results is less than the laboratory's MDL.

c. For an *average weekly* or *average monthly* permit limit or monitoring requirement when more than one sample is collected during the week or month, report:

The *average value* of all analytical results where 0 (zero) is substituted for *NODI (B)* and the laboratory's MDL is substituted for *NODI (Q)*.

6. In addition to information requirements specified under 40 CFR 122.41(j)(3), records of monitoring information shall include: the laboratory which performed the analyses and any comment, case narrative, or summary of results produced by the laboratory. The records should identify and discuss QA/QC analyses performed concurrently during sample analyses and whether project and 40 CFR 136 requirements were met. The summary of results must include information on initial and continuing calibration, surrogate analyses, blanks, duplicates, laboratory control samples, matrix spike and matrix spike duplicate results, and sample condition upon receipt, holding time, and preservation.

7. All monitoring results shall be submitted in such a format as to allow direct comparison with the effluent limits, monitoring requirements, and conditions of this permit. Monitoring results are to be reported on EPA Form 3320-1, a pre-printed Discharge Monitoring Report form ("DMR") provided by the EPA Region 9 DMR Coordinator for NPDES. Monthly DMR forms shall be submitted by the 28th day of the month following the previous reporting period. For example, under monthly submission the DMR form for January is due by February 28th, and under quarterly submission, the three DMR forms for January, February, and March are due on April 28th. Monitoring and reporting schedules are as follows:

E. Table 2: DMR Submission Due Dates

Sampling Frequency	Monitoring Period Begins On…	Monitoring Period	DMR Due Date
Continuous	Permit effective date	Continuous	28th day of the following month
Once/Day	Permit effective date	Midnight through 11:59 p.m.	28th day of the following month
Once/Week	Permit effective date	Sunday through Saturday	28th day of the following month
Once/Month	Permit effective date	First day of the calendar month through last day of the calendar month	28th day of the following month
Once/Quarter	Closest of January 1, April 1, July 1, or October 1 following (or on) permit effective date	January 1 through March 31 April 1 through June 30 July 1 through September 30 October 1 through December 31	28th day of the month following calendar quarter
Once/Year	January 1 following permit effective date	January 1 through December 31	January 28, each year

A DMR must be submitted for the reporting period even if there was not any discharge. If there is no discharge from the facility during the reporting period, the permittee shall submit a DMR indicating no discharge as required.

Beginning no later than June 30, 2016, the permittee shall begin reporting quarterly using NetDMR. NetDMR is a web-based tool that allows permittees to electronically submit DMRs and other required reports via a secure internet connection. NetDMR is accessed from: http://www.epa.gov/netdmr. By using NetDMR, the permittee will no longer be required to submit hard copies of DMRs to EPA under 40 CFR 122.41 and 403.12.

After the permittee begins submitting DMR reports to EPA electronically using NetDMR, the permittee shall electronically submit all reports to EPA as NetDMR attachments rather than as hard copies, unless otherwise specified in this permit. A report submitted electronically as a NetDMR attachment shall be submitted to EPA by the 28th day of the month following the calendar quarter it was due.

Part II. STANDARD CONDITIONS

The permittee shall comply with all EPA Region 9 Standard Conditions included in an attachment to this permit (see Attachment A).

Part III. SPECIAL CONDITIONS

A. Permit Reopener(s)

1. In accordance with 40 CFR 122 and 124, this permit may be modified by EPA to include effluent limits, monitoring, or other conditions to implement new regulations, including EPA-approved water quality standards; or to address new information indicating the presence of effluent toxicity or the reasonable potential for the discharge to cause or contribute to exceedances of water quality standards.

B. Twenty-four Hour Reporting of Noncompliance

1. The permittee shall report any noncompliance which may endanger human health or the environment. The permittee is required to provide an oral report by directly speaking with an EPA, the Navajo Nation EPA (NNEPA), and the New Mexico Environment Department (NMED) staff person within 24 hours from the time the permittee becomes aware of the circumstances. If the permittee is unsuccessful in reaching a staff person, the permittee shall provide notification by 9 a.m. on the first business day following the noncompliance. The permittee shall notify EPA, NNEPA and NMED at the following telephone numbers:

   U.S. Environmental Protection Agency
   CWA Compliance Office (ENF 3-1)
   (415) 972-3518

   Navajo Nation EPA
   Surface & Ground Water Protection Department
   (928) 871-7701

   New Mexico Environment Department
   (505) 827-2798

   The permittee shall follow up with a written submission within five days of the time the permittee becomes aware of noncompliance. The written submission shall contain a description of the noncompliance and its cause; 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 steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

2. The following shall be included as information which must be reported within 24 hours under this paragraph.

a. Any unanticipated bypass which exceeds any effluent limit in the permit (see 40 CFR 122.44(g)).

b. Any upset which exceeds any effluent limit in the permit.

c. Violation of a maximum daily discharge limit for any of the pollutants listed by the director in the permit to be reported within 24 hours (see 40 CFR 122.44(g)).

3. EPA may waive the written report on a case-by-case basis for reports required under paragraph B.1, if the oral report has been received within 24 hours.

C. Additional Annual Monitoring

New Mexico 401 Certification Monitoring Requirements:
The state of New Mexico requires data on additional parameters in order to determine compliance with its designated uses for the receiving waters. Monitoring of these lists of parameters shall be conducted once per calendar year, at a time when discharge is occurring.

The permittee shall monitor all pollutants listed in Table 3, below, for discharges to waters on State of New Mexico lands other than Tse Bonita Wash, namely Defiance Draw and tributaries thereto. The state has specified that the following persistent pollutants shall not enter into a perennial stream, such as Defiance Draw, and therefore monitoring of the following parameters is required at outfalls 4, 5, 29, 30, 32-50, and 68-75 once per year during a discharge event:

Table 3: New Mexico supplemental monitoring parameters for waters other than Tse Bonita Wash

Antimony, Dissolved (D)	Selenium (D)	Aldrin	4,4'-DDT and all derivatives	Hexachlorobenzene
Arsenic (D)	Thallium (D)	Benzo(a)pyrene	Dieldrin	PCBs (total)
Nickel (D)	Zinc (D)	Chlordane	2,3,7,8-TCDD dioxin	Tetrachloroethylene

The permittee shall also monitor all pollutants listed in Table 4, below, once annually during a discharge event at each outfall discharging into Tse Bonita Wash within State of New Mexico lands, as listed in Attachment D [see column "NM or NN"]. As of the date of this permit writing, those outfalls are 031, 064, and 065. Note that the "Numeric Criteria" column is provided for informational purposes and does not represent permit limits.

Table 4: New Mexico supplemental monitoring requirements for Tse Bonita Wash

Pollutant (total, unless indicated)	Numeric Criteria (µg/L unless indicated)
Aluminum, dissolved	750
Antimony, dissolved	640
Arsenic, dissolved	9.0
Boron, dissolved	5000
Cadmium, dissolved	hardness dependant – see 20.6.4.900.I
Chromium, dissolved	hardness dependant – see 20.6.4.900.I
Cobalt, dissolved	1000
Copper, dissolved	hardness dependant – see 20.6.4.900.I
Cyanide, weak acid dissociable	5.2
Lead, dissolved	hardness dependant – see 20.6.4.900.I
Mercury	0.77
Nickel, dissolved	hardness dependant – see 20.6.4.900.I
Selenium, total recoverable	5.0
Silver, dissolved	hardness dependant – see 20.6.4.900.I
Thallium, dissolved	6.3
Vanadium, dissolved	100
Zinc, dissolved	hardness dependant – see 20.6.4.900.I
Adjusted gross alpha	15 pCi/L
Radium 226 +Radium 228	30 pCi/L
Aldrin	0.00050
Benzo(a)pyrene	0.18
Gamma-BHC (Lindane)	0.95
Chlordane	0.0081
4,4'-DDT and derivatives	0.001
Dieldrin	0.00054
2,3,7,8-TCDD Dioxin	5.1 E-08
alpha-Endosulfan	0.22
beta-Endosulfan	0.22
Endrin	0.086
Heptachlor	0.52
Heptachlor epoxide	0.52
Hexachlorobenzene	0.0029
PCBs	0.00064
Pentachlorophenol	19
Tetrachloroethylene	33
Toxaphene	0.73

Part IV. ATTACHMENTS

Attachment A: Standard Permit Conditions

A. All NPDES Permits

In accordance with 40 CFR 122.41, the following conditions apply to all NPDES permits and are expressly incorporated into this permit.

a. Duty to comply; at 40 CFR 122.41(a).

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

(1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under 405(d) of the CWA within the time provided in the regulations that established these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

(2) The CWA provides that 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 $25,000 per day for each violation. The CWA provides that 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 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 of 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. Any person who *knowingly* violates such sections, or such conditions or limitations 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 of not more than 6 years, or both. 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 note more than

$250,000 or imprisonment of not more than 15 years, or both. In the case of 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, such 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) 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 such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed $10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $25,000. Penalties for Class II violations are not to exceed $10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $125,000.

b. Duty to reapply; at 40 CFR 122.41(b).

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.

c. Need to halt or reduce activity not a defense; at 40 CFR 122.41(c).

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.

d. Duty to mitigate; at 40 CFR 122.41(d).

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.

e. Proper operation and maintenance; at 40 CFR 122.41(e).

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 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 the permit.

f. Permit actions; at 40 CFR 122.41(f).

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.

g. Property rights; at 40 CFR 122.41(g).

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

h. Duty to provide information; at 40 CFR 122.41(h).

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.

i. Inspection and entry; at 40 CFR 122.41(i).

The permittee shall allow the Director, or an 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:

(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) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

j. Monitoring and records; at 40 CFR 122.41(j).

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

(2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), 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.

(3) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed

(iv) The individuals(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(4) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR part 503, unless other test procedures have been specified in the permit.

(5) The CWA provides that any person who falsifies, tampers with, or knowingly 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 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

k. Signatory requirement; at 40 CFR 122.41(k).

(1) All applications, reports, or information submitted to the Director shall be signed and certified. (See 40 CFR 122.22.)

(2) The CWA 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 non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

l. Reporting requirements; at 40 CFR 122.41(l).

(1) Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alternations or additions to the permitted facility. Notice is required only when:

(i) 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 122.29(b); or

(ii) 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 under 40 CFR 122.42(a)(1).

(iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, any such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;

(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 CWA. (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory.)

(4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 503, or as specified in the permit, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.

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

(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(6) Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; 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 the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR 122.41(g).)

(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See 40 CFR 122.44(g).)

(iii) The Director may waive the written report on a case-by-case basis for reports under 40 CFR 122.41(l)(6)(ii) of this section if the oral report has been received within 24 hours.

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under 40 CFR 122.41(l)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (l)(6) of this section.

(8) 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.

m. Bypass; at 40 CFR 122.41(m).

(1) Definitions.

(i) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) "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.

(2) 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 paragraphs 40 CFR 122.41(m)(3) and (m)(4) of this section.

(3) Notice.

(i) 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.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24-hour notice).

(4) Prohibition of bypass.

(i) 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 preventative maintenance; and

(C) The permittee submitted notices as required under paragraph (m)(3) of this section.

(ii) 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 paragraph (m)(4)(i) of this section.

n. Upset; at 40 CFR 122.41(n).

(1) Definition. "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 cause by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(2) 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 paragraph (n)(3) of this section 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.

(3) 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:

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

(ii) The permitted facility was at the time being properly operated; and

(iii) The permittee submitted notice of the upset as required in paragraph (l)(6)(ii)(B) of this section (24 hour notice).

(iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

(4) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

B. Specific Categories of NPDES Permits

In accordance with 40 CFR 122.42, the following conditions, in addition to those set forth at 40 CFR 122.41, apply to all NPDES permits within the category specified below and are expressly incorporated into this permit.

a. Existing manufacturing, commercial, mining, and silviculture dischargers; at 40 CFR 122.42 (a). All existing manufacturing, commercial, mining, and silviculture dischargers must notify the Director as soon as they know or have reason to believe:

(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":

(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-dinitrophenol 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 in accordance with 40 CFR 122.21(g)(7); or

(4) The level established by the Director in accordance with 40 CFR 122.44(f).

(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":

(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 in accordance with 40 CFR 122.21(g)(7).

(4) The level established by the Director in accordance with 40 CFR 122.44(f).

C. Standard Conditions Established by EPA Region 9 for All NPDES Permits

1. Duty to reapply; at 40 CFR 122.21(d).

    a. Any POTW with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

    b. All other permittees with currently effective permits shall submit a new application 180 days before the existing permit expires, except that:

        (1) the Regional Administrator may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date.

2. Signatories to permit applications and reports; at 40 CFR 122.22.

    a. Applications. 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: (i) 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 (ii) 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.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in 40 CFR 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under 40 CFR 122.22(a)(1)(ii) rather than to specific individuals.

(2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or

(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: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

b. All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, 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 in paragraph (a) of this section;

(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 well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters of the company, (A duly authorized representative may

thus be either a named individual or any individual occupying a named position.) and,

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

c. Changes to authorization. If an authorization under paragraph (b) of this section 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 paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing a document under paragraph (a) or (b) of 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."

3. Reopener Clause; at 40 CFR 122.44(c).

For any permit issued to a treatment works treating domestic sewage (including "sludge-only facilities"), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

4. Transfer of permits; at 40 CFR 122.61.

a. Transfers by modification. Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under 40 CFR 122.62(b)(2)), or a minor modification made (under 40 CFR 122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.

b. Automatic transfers. As an alternative to transfers under paragraph (a) of this section, any NPDES permit may be automatically transferred to a new permittee if:

(1) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date in paragraph (b)(2) of this section;

(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

(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. A modification under this subparagraph may also be a minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.

5. Minor modifications of permits; at 40 CFR 122.63.

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of 40 CFR 124. Any permit modification not processed as a minor modification under this section must be made for cause and with 40 CFR 124 draft permit and public notice as required in 40 CFR 122.62. Minor modifications may only:

a. Correct typographical errors;

b. Require more frequent monitoring or reporting by the permittee;

c. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

d. Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.

e. (1) Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under 40 CFR 122.29.

(2) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.

f. [Reserved]

g. Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 (or a modification thereto that has been approved in accordance with the procedures in 40 CFR 403.18) as enforceable conditions of the POTW's permits.

6. Termination of permits; at 40 CFR 122.64.

a. The following are causes for terminating a permit during its term, or for denying a permit renewal application:

(1) Noncompliance by the permittee with any conditions of the permit;

(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

(4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).

b. The Director shall follow the applicable procedures in 40 CFR 124 or 40 CFR 122.22, as appropriate (or State procedures equivalent to 40 CFR 124) in terminating any NPDES permit under this section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the Director may terminate the permit by notice to the permittee. Termination by notice shall be effective 30 days after notice is sent, unless the permittee objects within that time. If the permittee objects during that period, the Director shall follow 40 CFR 124 or applicable State procedures for termination. Expedited permit termination procedures are not available to permittees that are subject to pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. State-authorized NPDES programs are not required to use part 22 of this chapter's procedures for NPDES permit terminations.

7. Availability of Reports; pursuant to CWA section 308

Except for data determined to be confidential under 40 CFR 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the CWA, permit applications, permits, and effluent data shall not be considered confidential.

8. Removed Substances; pursuant to CWA section 301

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials entering waters of the U.S.

9. Severability; pursuant to CWA section 512

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 remainder of this permit, shall not be affected thereby.

10. Civil and Criminal Liability; pursuant to CWA section 309

    Except as provided in permit conditions on "Bypass" and "Upset", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

11. Oil and Hazardous Substances Liability; pursuant to CWA section 311

    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 CWA.

12. State, Tribe, or Territory Law; pursuant to CWA section 510

    Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any applicable State, Tribe, or Territory law or regulation under authorities preserved by CWA section 510.

Attachment B: Definitions

1. "Average monthly discharge limitation" means the highest allowable average of "daily discharges" over 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.

2. "Average weekly discharge limitation" means the highest allowable average of "daily discharges" over 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.

3. "Best Management Practices" or "BMPs" are schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural, and/or managerial practices to prevent or reduce the pollution of waters of the U.S. BMPs include treatment systems, operating procedures, and practices to control: plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs may further be characterized as operational, source control, erosion and sediment control, and treatment BMPs.

4. A "composite" sample means a time-proportioned mixture of not less than eight discrete aliquots obtained at equal time intervals (e.g., 24-hour composite means a minimum of eight samples collected every three hours). The volume of each aliquot shall be directly proportional to the discharge flow rate at the time of sampling, but not less than 100 ml. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3, Table II. Where collection, preservation, and handling procedures are not outlined in 40 CFR 136.3, procedures outlined in the 18th edition of Standard Methods for the Examination of Water and Wastewater shall be used.

5. A "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 units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the 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 day.

6. A "daily maximum allowable effluent limitation" means the highest allowable "daily discharge."

7. A "DMR" is a "Discharge Monitoring Report" that is an EPA uniform national form, including any subsequent additions, revisions, or modifications for reporting of self-monitoring results by the permittee.

8. A "grab" sample is a single sample collected at a particular time and place that represents the composition of the discharge only at that time and place. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3, Table II. Where collection, preservation, and handling procedures are not

outlined in 40 CFR 136.3, procedures outlined in the 18th edition of Standard Methods for the Examination of Water and Wastewater shall be used.

9. The "method detection limit" or "MDL" is the minimum concentration of an analyte that can be detected with 99% confidence that the analyte concentration is greater than zero, as defined by a specific laboratory method in 40 CFR 136. The procedure for determination of a laboratory MDL is in 40 CFR 136, Appendix B.

10. The "minimum level" or "ML" is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed in a specific analytical procedure, assuming that all the method-specific sample weights, volumes, and processing steps have been followed (as defined in EPA's draft National Guidance for the Permitting, Monitoring, and Enforcement of Water Quality-Based Effluent Limitations Set Below Analytical Detection/Quantitative Levels, March 22, 1994). If a published method-specific ML is not available, then an interim ML shall be calculated. The interim ML is equal to 3.18 times the published method-specific MDL rounded to the nearest multiple of 1, 2, 5, 10, 20, 50, etc. (When neither an ML nor MDL are available under 40 CFR 136, an interim ML should be calculated by multiplying the best estimate of detection by a factor of 3.18; when a range of detection is given, the lower end value of the range of detection should be used to calculate the ML.) At this point in the calculation, a different procedure is used for metals than non-metals:

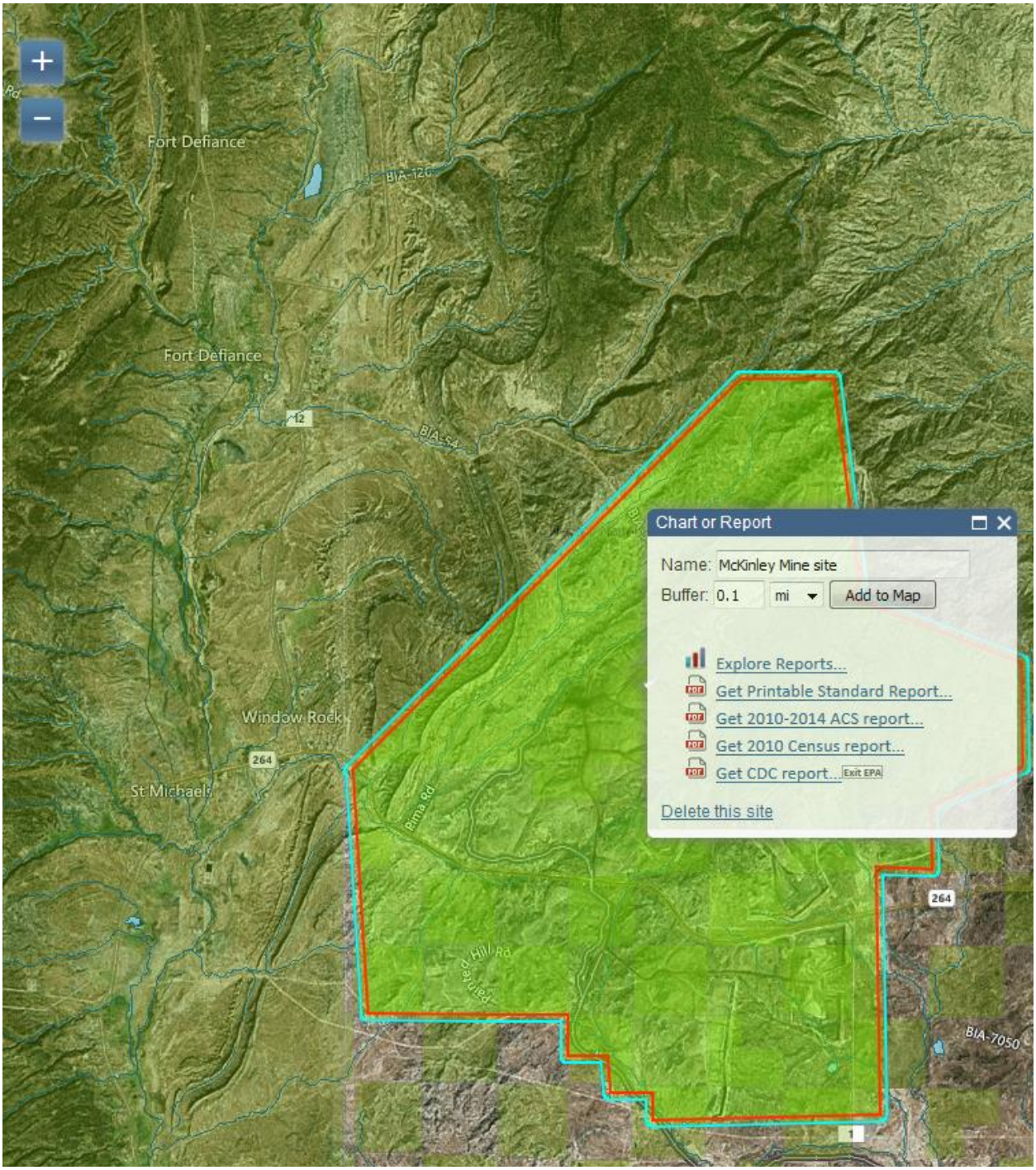
    a. For metals, due to laboratory calibration practices, calculated MLs may be rounded to the nearest whole number.

    b. For non-metals, because analytical instruments are generally calibrated using the ML as the lowest calibration standard, the calculated ML is then rounded to the nearest multiple of (1, 2, or 5) x 10n, where n is zero or an integer. (For example, if an MDL is 2.5 µg/l, then the calculated ML is: 2.5 µg/l x 3.18 = 7.95 µg/l. The multiple of (1, 2, or 5) x 10n nearest to 7.95 is 1 x 101 = 10 µg/l, so the calculated ML, rounded to the nearest whole number, is 10 µg/l.)

11. A "NODI(B)" means that the concentration of the pollutant in a sample is not detected. NODI(B) is reported when a sample result is less than the laboratory's MDL.

12. A "NODI(Q)" means that the concentration of the pollutant in a sample is detected but not quantified. NODI(Q) is reported when a sample result is greater than or equal to the laboratory's MDL, but less than the ML.

Attachment C: Location Map



Attachment D: Outfall Classifications

Coal ELG Subpart	Outfall #	NM or NN	Lat º	Lat '	Decimal Lat	Lon º	Lon '	Decimal Lon	Receiving Water name
H	3	NN	35	40	35.67	-108	59	-109.00	Coal Mine Wash to Puerco River
H	4	NM	35	36	35.62	-108	59	-108.99	Defiance Draw to Puerco River
H	5	NM	35	37	35.62	-108	53	-108.88	Defiance Draw to Puerco River
H	6	NN	35	40	35.67	-108	53	-108.89	Defiance Draw to Puerco River
H	9	NN	35	39	35.66	-108	59	-108.99	Coal Mine Wash to Puerco River
H	10	NN	35	40	35.67	-108	59	-108.99	Coal Mine Wash to Puerco River
H	11	NN	35	43	35.72	-108	55	-108.93	Coal Mine Wash to Puerco River
H	12	NN	35	43	35.73	-108	55	-108.93	Coal Mine Wash to Puerco River
H	13	NN	35	41	35.69	-108	56	-108.94	Tse Bonita Wash to Puerco River
H	14	NN	35	40	35.68	-108	56	-108.95	Tse Bonita Wash to Puerco River
H	15	NN	35	40	35.67	-108	53	-108.90	Defiance Draw to Puerco River
H	16	NN	35	39	35.66	-108	54	-108.90	Defiance Draw to Puerco River
H	17	NN	35	40	35.67	-108	57	-108.95	Tse Bonita Wash to Puerco River
H	18	NN	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	19	NN	35	39	35.66	-108	58	-108.97	Tse Bonita Wash to Puerco River
H	20	NN	35	38	35.64	-108	58	-108.97	Defiance Draw to Puerco River
H	21	NN	35	17	35.31	-108	58	-108.97	Defiance Draw to Puerco River
H	22	NN	35	38	35.64	-108	59	-108.99	Tse Bonita Wash to Puerco River
H	23	NN	35	38	35.64	-108	59	-108.99	Tse Bonita Wash to Puerco River
H	24	NN	35	38	35.65	-108	59	-108.99	Tse Bonita Wash to Puerco River
H	26	NN	35	38	35.65	-108	58	-108.98	Tse Bonita Wash to Puerco River
H	27	NN	35	38	35.65	-108	58	-108.98	Tse Bonita Wash to Puerco River
H	28	NN	35	38	35.65	-108	58	-108.98	Tse Bonita Wash to Puerco River
H	29	NM	35	38	35.64	-108	58	-108.98	Defiance Draw to Puerco River
H	30	NM	35	38	35.63	-108	58	-108.98	Defiance Draw to Puerco River
H	31	NM	35	39	35.65	-108	58	-108.97	Tse Bonita Wash to Puerco River
H	32	NM	35	38	35.64	-108	57	-108.97	Defiance Draw to Puerco River
H	33	NM	35	39	35.65	-108	55	-108.92	Defiance Draw to Puerco River
~~H~~	~~34~~	~~NM~~	~~35~~	~~38~~	~~35.65~~	~~-108~~	~~55~~	~~-108.92~~	~~Defiance Draw to Puerco River~~
H	35	NM	35	38	35.64	-108	55	-108.92	Defiance Draw to Puerco River
H	36	NM	35	37	35.63	-108	55	-108.92	Defiance Draw to Puerco River
H	37	NM	35	36	35.60	-108	55	-108.92	Defiance Draw to Puerco River
H	38	NM	35	36	35.60	-108	55	-108.92	Defiance Draw to Puerco River
H	39	NM	35	35	35.59	-108	55	-108.93	Defiance Draw to Puerco River
H	40	NM	35	35	35.59	-108	56	-108.94	Defiance Draw to Puerco River

Coal ELG Subpart	Outfall #	NM or NN	Lat º	Lat '	Decimal Lat	Lon º	Lon '	Decimal Lon	Receiving Water name
H	41	NM	35	35	35.59	-108	57	-108.95	Defiance Draw to Puerco River
H	42	NM	35	35	35.59	-108	57	-108.96	Defiance Draw to Puerco River
~~H~~	~~43~~	~~NM~~	~~35~~	~~35~~	~~35.59~~	~~-108~~	~~57~~	~~-108.96~~	~~Defiance Draw to Puerco River~~
H	44	NM	35	35	35.60	-108	57	-108.96	Defiance Draw to Puerco River
H	45	NM	35	36	35.60	-108	57	-108.97	Defiance Draw to Puerco River
H	46	NM	35	37	35.62	-108	57	-108.95	Defiance Draw to Puerco River
H	47	NM	35	37	35.62	-108	56	-108.95	Defiance Draw to Puerco River
H	48	NM	35	36	35.61	-108	56	-108.94	Defiance Draw to Puerco River
H	49	NM	35	36	35.61	-108	56	-108.94	Defiance Draw to Puerco River
H	50	NM	35	36	35.61	-108	56	-108.94	Defiance Draw to Puerco River
H	51	NN	35	37	35.63	-109	2	-109.04	Tse Bonita Wash to Puerco River
H	52	NN	35	37	35.63	-109	2	-109.04	Tse Bonita Wash to Puerco River
H	53	NN	35	37	35.63	-109	2	-109.03	Tse Bonita Wash to Puerco River
H	54	NN	35	37	35.63	-109	1	-109.03	Tse Bonita Wash to Puerco River
H	55	NN	35	37	35.63	-109	1	-109.03	Tse Bonita Wash to Puerco River
H	56	NN	35	37	35.63	-109	1	-109.03	Tse Bonita Wash to Puerco River
H	57	NN	35	37	35.63	-109	1	-109.02	Tse Bonita Wash to Puerco River
H	58	NN	35	41	35.69	-108	58	-108.98	Coal Mine Wash to Puerco River
H	59	NN	35	41	35.69	-108	58	-108.98	Coal Mine Wash to Puerco River
H	60	NN	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	61	NN	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
~~H~~	~~62~~	~~NN~~	~~35~~	~~39~~	~~35.66~~	~~-108~~	~~57~~	~~-108.96~~	~~Tse Bonita Wash to Puerco River~~
H	63	NN	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	64	NM	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	65	NM	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
~~H~~	~~66~~	~~NN~~	~~35~~	~~39~~	~~35.66~~	~~-108~~	~~57~~	~~-108.96~~	~~Tse Bonita Wash to Puerco River~~
~~H~~	~~67~~	~~NN~~	~~35~~	~~39~~	~~35.66~~	~~-108~~	~~57~~	~~-108.96~~	~~Tse Bonita Wash to Puerco River~~
H	68	NM	35	36	35.61	-108	56	-108.94	Defiance Draw to Puerco River
H	69	NM	35	36	35.61	-108	56	-108.93	Defiance Draw to Puerco River
H	70	NM	35	36	35.61	-108	55	-108.93	Defiance Draw to Puerco River
H	71	NM	35	36	35.60	-108	55	-108.93	Defiance Draw to Puerco River
H	72	NM	35	37	35.62	-108	59	-108.99	Defiance Draw to Puerco River
~~H~~	~~73~~	~~NM~~	~~35~~	~~37~~	~~35.63~~	~~-108~~	~~58~~	~~-108.98~~	~~Defiance Draw to Puerco River~~
~~H~~	~~74~~	~~NM~~	~~35~~	~~37~~	~~35.63~~	~~-108~~	~~58~~	~~-108.98~~	~~Defiance Draw to Puerco River~~
H	75	NM	35	36	35.61	-108	55	-108.93	Defiance Draw to Puerco River
H	76	NN	35	39	35.65	-108	58	-108.97	Tse Bonita Wash to Puerco River
H	77	NN	35	39	35.66	-108	57	-108.97	Tse Bonita Wash to Puerco River

Coal ELG Subpart	Outfall #	NM or NN	Lat º	Lat '	Decimal Lat	Lon º	Lon '	Decimal Lon	Receiving Water name
H	79	NM	35	38	35.65	-108	55	-108.92	Defiance Draw to Puerco River
H	80	NN	35	39	35.66	-108	57	-108.96	Tse Bonita Wash to Puerco River
H	81	NN	35	39	35.66	-108	57	-108.97	Tse Bonita Wash to Puerco River
H	82	NN	35	39	35.66	-108	58	-108.97	Tse Bonita Wash to Puerco River
H	83	NN	35	39	35.66	-108	58	-108.98	Tse Bonita Wash to Puerco River
H	84	NN	35	38	35.65	-108	59	-108.98	Tse Bonita Wash to Puerco River