



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAY 01 2015

CERTIFIED MAIL 7010 1060 0002 1703 8495
RETURN RECEIPT REQUESTED

Mr. Reggie Shumaker, P.E.
Director, Engineering Services & Utilities Management
Choctaw Public Works Department
Mississippi Band of Choctaw Indians
Post Office Box 6366 - Choctaw Branch
Choctaw, Mississippi 39350

Re: Final Issuance of modified National Pollutant Discharge Elimination System Permit No.:
MS0058645
New Harmony Wastewater Treatment Plant

Dear Mr. Shumaker:

Enclosed is the modified National Pollutant Discharge Elimination System Permit (Permit) for the above-referenced facility. The Permit shall become effective as indicated on the cover page unless you petition the Environmental Appeals Board (EAB) to review any conditions of the Permit in accordance with the provisions of Title 40, Code of Federal Regulations, Section 124.19 within 30 days following the date you receive the Permit. All pleadings filed by mail must be addressed to:

U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Hand-Delivered filings must be submitted to the following address:

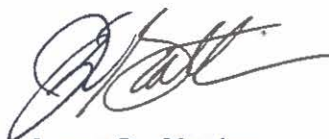
Environmental Appeals Board
Colorado Building
1341 G Street N.W., Suite 600
Washington, DC 20005

Documents may be filed with the Clerk of the Board between the hours of 8:30 a.m. and 4:30 p.m. Eastern Standard Time, Monday through Friday (excluding Federal holidays). The website for the EAB is <http://www.epa.gov/eab>. The webpage's Frequently Asked Questions deals with filing issues, which may assist you in regard to the permit appeal process.

The preprinted Discharge Monitoring Report (DMR) Forms for the enclosed Permit are being processed and will be mailed to you before the first DMR due date. These forms should be used to report all discharge data at the frequency required in your Permit. If you have not received these preprinted forms prior to the end of the first monitoring period, please contact Mr. Mike Hom at (404) 562-9748.

Please contact Mr. Sam Sampath, of my staff, at (404) 562-9229, if you have any questions regarding the technical aspects of the Permit. Please direct any legal inquiries regarding this permit issuance to Mr. Paul Schwartz, Attorney-Advisor, at (404) 562-9576.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Giattina", with a long horizontal flourish extending to the right.

James D. Giattina
Director
Water Protection Division

Enclosures

1. Evidentiary Hearing Procedures
2. Amendment to Fact Sheet

cc: Tracy Thomkins
Mississippi Department of Environmental Quality

Mr. Jeffrey Lee
U.S. Fish & Wildlife Service

Permit No. MS0058645
Minor POTW

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IV

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"), the

**Mississippi Band of Choctaw Indians
Post Office Box 6366 - Choctaw Branch
Choctaw, Mississippi 39350**

is authorized to discharge from a facility located at

**New Harmony WWTP
11312 Road 149
Neshoba County, Mississippi**

to receiving waters named

Outfall 001: Unnamed tributary to Beasha Creek

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein. The permit consists of this cover sheet, Part I 5 pages, Part II 17 pages and Part III 3 pages and Part IV 2 pages.


This permit shall become effective on July 01, 2014

This permit was modified on March 18, 2015

This permit and the authorization to discharge shall expire at midnight June 30, 2019

MAY 01 2015

Date Issued


James D. Grattina, Director
Water Protection Division

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS -

1. During the period beginning on the effective date and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall Serial Number 001, sanitary wastewater. Such discharges shall be limited and monitored by the permittee as specified below:

PARAMETERS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
	MONTHLY AVG	WEEKLY AVG	DAILY MAX	SAMPLING POINT(s)	MEASUREMENT FREQUENCY	SAMPLE TYPE
Flow, MGD	Report	Report		Effluent	Continuous	Recorder
Carbonaceous Biochemical Oxygen Demand 5-Day (CBOD ₅), mg/l (lbs/day)	10.0 (15.88)	15.0 (23.82)		Effluent	1 day/week	24-hour Composite
Total Suspended Solids (TSS), mg/l	Report	---		<i>Influent</i>	1 day/week	24-hour Composite
Total Suspended Solids (TSS), mg/l (lbs/day)	30.0 (125.1)	45.0 (187.6)		Effluent	1 day/week	24-hour Composite
Ammonia Nitrogen, (NH ₃ -N), mg/l (lbs/day)	2.0 (8.34)	3.0(12.51)		Effluent	1 day/week	24-hour Composite
Dissolved Oxygen (DO)	shall not be less than 6.0 mg/l			Effluent	1 day/week	Grab
pH, standard units (SU)	6.0 - 9.0			Effluent	1 day/week	Grab
Fecal Coliform Bacteria, #/100ml (May-Oct)	200	400		Effluent	1 day/week	Grab
Fecal Coliform Bacteria, #/100ml (Nov-Apr)	2000	4000		Effluent	1 day/week	Grab
Chronic Whole Effluent Toxicity, IC ₂₅	See item 8, page I-3		>72.5 %	Effluent	See item 8, page I-3 and Part IV	

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS -

1. During the period beginning on the effective date of the permit and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall Serial Number 001, sanitary wastewater.

Such discharges shall be limited and monitored by the permittee as specified below:

PARAMETERS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS		
	MONTHLY AVG	WEEKLY AVG	SAMPLING POINT(s)	MEASUREMENT FREQUENCY	SAMPLE TYPE
Total Nitrogen, mg/L	Report as a daily maximum		Effluent	1/Quarter	Grab
Total Phosphorus, mg/L	Report as a daily maximum		Effluent	1/Quarter	Grab
In-stream Monitoring	See items 9 & 10, pages I-3 & I-4		Upstream/ Downstream	See items 9 & 10, pages I-3 & I-4	Grab

2. In addition to the specified limits, the monthly average effluent TSS concentration shall not exceed 15% of the respective influent value (minimum of 85% removal). The percent removal shall also be reported on the Discharge Monitoring Report (DMR) Form (EPA No. 3320-1).
3. The geometric mean of the fecal coliform values collected during any monthly period shall not exceed 200 colonies (from May through October) or 2000 colonies (from November through April) per 100 ml of effluent sample and shall be reported as the monthly average value on the DMR Form. The weekly fecal coliform value (also computed as a geometric mean should any more than one sample be taken in a week) shall not exceed 400 colonies (from May through October) or 4000 colonies (from November through April) per 100 ml of effluent sample and shall be reported as the weekly average value on the DMR Form.
4. Samples taken in compliance with the monitoring requirements specified in this permit shall be taken at the nearest accessible point after final treatment but prior to the actual discharge or mixing with the receiving waters (unless otherwise specified).
5. Any bypass of the treatment facility, which is not included in the effluent monitored above, is to be monitored for flow and all other parameters, except chronic whole effluent toxicity. For parameters other than flow, at least one grab sample per day shall be monitored. Daily flow shall be monitored or estimated, as appropriate, to obtain reportable data. All monitoring results shall be reported on a DMR Form.
6. There shall be no discharge of floating solids or visible foam in other than trace amounts.
7. The effluent shall not cause a visible sheen on the receiving water.
8. The permittee shall conduct chronic whole effluent toxicity monitoring as specified in Part IV. The effluent shall be monitored for chronic whole effluent toxicity once every two months until six valid bimonthly tests have been completed and once every six months thereafter for the duration of the permit
9. Downstream Monitoring Requirements: During the months of June through September, a grab sample shall be taken from Beasha Creek at a location 1.5 to 2.5 miles downstream of the confluence of the unnamed tributary which receives the discharge and Beasha Creek. The sample shall be taken between the hours of 6:00 p.m. and 6:00 a.m. at the frequency of 1 day/2 weeks. Dissolved Oxygen (DO), pH, temperature and conductivity shall be measured from each sample. Monitoring results from this location shall be reported on a DMR Form.

10. **Upstream Monitoring Requirements:** During the months of June through September, a grab sample shall be taken from Beasha Creek at the nearest accessible point upstream from and outside of the influence of the confluence of the unnamed tributary receiving the discharge from the facility and Beasha Creek. The sample shall be taken between the hours of 6:00 a.m. and 12:00 p.m. at the frequency of 1 day/2 weeks. Dissolved Oxygen (DO), pH, temperature and conductivity shall be measured from each sample. All monitoring results from this location shall be reported on a DMR Form.
11. If the results for a given sample analysis are such that any parameter (other than fecal coliform) is not detected at or above the minimum level for the test method used, a value of zero will be used for that sample in calculating an arithmetic mean value for the parameter. If the resulting calculated arithmetic mean value for that reporting period is zero, the permittee shall report "NODI=B" on the DMR Form. For fecal coliform, a value of 1.0 shall be used in calculating the geometric mean. If the resulting fecal coliform mean value is 1.0, the permittee shall report "NODI=B" on the DMR Form. For each quantitative sample value that is not detectable, the test method used and the minimum level for that method for that parameter shall be attached to and submitted with the DMR Form. The permittee shall then be considered in compliance with the appropriate effluent limitation and/or reporting requirement.
12. **Overflow identification:** The permittee shall identify all wastewater discharges, at locations not authorized as permitted outfalls, that occur prior to the headworks of the wastewater treatment plant covered by this permit. The permittee shall submit, with the scheduled DMR Form, the following information for each discharge event at each source that occurs during the reporting period covered by the DMR Form:
 - a. the cause of the discharge;
 - b. duration and volume (estimate if unknown);
 - c. description of the source, e.g., manhole cover, pump station;
 - d. type of collection system that overflowed, i.e., combined or separate;
 - e. location by street address, or any other appropriate method;
 - f. date of event;
 - g. the ultimate destination of the flow, e.g., surface water body, land use location, via municipal separate storm sewer system to a surface water body, (show location on a USGS map or copy thereof); and
 - h. corrective actions or plans to eliminate future discharges.

The permittee shall refer to Part II.D.8 of this permit which contains information about reporting unpermitted discharge events. Submittal or reporting of any of this information does not provide relief from any subsequent enforcement actions for unpermitted discharges to waters of the United States.

B. SLUDGE MANAGEMENT PRACTICES

1. The requirements below only apply when sewage sludge is disposed under 40 CFR Part 503.
2. The permittee shall comply with all existing federal laws and regulations that apply to sewage sludge use and disposal practices including 40 CFR Part 503 and 40 CFR Part 258 which are hereby incorporated as part of the permit by reference, and the Clean Water Act (CWA) Section 405(d) technical standards.

If an applicable management or practice or numerical limitation for pollutants in sewage sludge more stringent than existing federal regulations is promulgated under Section 405(d) of the CWA, this permit may be modified or revoked or reissued to conform to the promulgated regulations.

3. The permittee is responsible for assuring that all sludge produced at its facility are used or disposed of in accordance with these rules, whether the permittee uses or disposes of the sludge itself or transfers them to another party for further treatment, use, or disposal. The permittee is responsible for informing subsequent preparers, appliers, and disposers of the requirements that they must meet under these rules.
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.
5. The permittee shall submit an annual sludge report containing the information required in 40 CFR Part 503 by February 19th of each calendar year. The report shall cover the previous calendar year. The report shall be submitted to the U.S. EPA Region 4, Clean Water Enforcement Branch, 61 Forsyth Street, S.W., Atlanta, Georgia 30303-8960.

C. SCHEDULE OF COMPLIANCE

1. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule:

Operational Level AttainedEffective Date of the Permit

2. No later than 14 calendar days following a date identified in the above schedule of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

PART II

STANDARD CONDITIONS FOR NPDES PERMITS

SECTION A. GENERAL CONDITIONS

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA or Act) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish 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.

[40 CFR §§ 122.41(a) and 122.41(a)(1)]

2. Penalties for Violations of Permit Conditions

The Clean Water Act 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 \$32,500 per day for each violation. The Clean Water Act 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 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 of not more than one 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 two 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 three 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 six 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 not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

[40 CFR § 122.41(a)(2) and 69 FR 7121]

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. Administrative penalties for Class I violations are not to exceed \$11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$32,500. Penalties for Class II violations are not to exceed \$11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$157,500. [40 CFR § 122.41(a)(3) and 69 FR 7121]

The specific amounts for violations reflect those in effect at the time of permit issuance and are subject to change.

3. Civil and Criminal Liability

Except as provided in permit conditions on "Bypassing" Section B, Paragraph 3, and "Upset" Section B, Paragraph 4, nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

[40 CFR § 122.41(m) and (n)]

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.

[40 CFR § 122.41(d)]

5. 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.

[40 CFR § 122.41(f)]

6. Toxic Pollutants

If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Clean Water Act for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the Director shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

[40 CFR § 122.44(b)(1)]

7. 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.

8. State Laws

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

9. Effect of a Permit

Except for any toxic effluent standards and prohibitions imposed under Section 307 of the CWA and "standards for sewage sludge use or disposal" under Section 405(d) of the CWA, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 307, 318, 403, and 405 (a)-(b) of CWA. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in 40 CFR §§ 122.62 and 122.64.

Compliance with a permit condition which implements a particular "standard for sewage sludge use or disposal" shall be an affirmative defense in any enforcement action brought for a violation of that "standard for sewage sludge use or disposal" pursuant to Sections 405(e) and 309 of the CWA.

[40 CFR § 122.5(a)]

10. Property Rights

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

[40 CFR § 122.5(b) & 40 CFR § 122.41(g)]

The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

[40 CFR § 122.5(c)]

11. Onshore or Offshore Construction

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any waters of the United States.

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.

13. 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.

[40 CFR § 122.41(h)]

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. 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.

[40 CFR § 122.41(e)]

2. 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.

[40 CFR § 122.41(c)]

3. Bypass of Treatment Facilities

a. Definitions

- (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- (2) "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.

b. 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 c. and d. of this subsection.

c. Notice

- (1) **Anticipated bypass.** If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
- (2) **Unanticipated bypass.** The permittee shall submit notice of an unanticipated bypass as required in Section D, Subsection 8 (24-hour notice).

d. Prohibition of bypass

- (1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The permittee submitted notices as required under Paragraph c. of this subsection.
- (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 Paragraph d.(1) of this subsection.

[40 CFR § 122.41(m)(1)-(4)]

4. Upsets

a. 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 caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. 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 c. of this subsection 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.

c. Conditions necessary for a demonstration of upset

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

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

- (2) The permitted facility was at the time being properly operated; and
- (3) The permittee submitted notice of the upset as required in Section D, Subsection 8 (24 hour notice);
- (4) The permittee complied with any remedial measures required under Section A., Subsection 4.

d. Burden of proof

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

[40 CFR § 122.41(n)(1)-(4)]

5. Removed Substances

This permit does not authorize discharge of solids, sludge, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters of the United States unless specifically limited in Part I.

SECTION C. MONITORING AND RECORDS

1. Representative Sampling

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

[40 CFR § 122.41(j)(1)]

All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Director.

4. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to insure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to insure that the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than $\pm 10\%$ from the true discharge rates throughout the range of expected discharge volumes. Once-through condenser cooling water flow which is monitored by pump logs, or pump hour meters as specified in Part I of this permit and based on the manufacturer's pump curves shall not be subject to this requirement. Guidance in selection, installation, calibration, and operation of acceptable flow measurement devices can be obtained from the following references. These references are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone number: (800) 553-6847 or (703) 487-4650.

"A Guide to Methods and Standards for the Measurement of Water Flow," U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 421, May 1975, 100 pp. (Order by NTIS No. COM-7510683.)

"Water Measurement Manual," U.S. Department of Interior, Bureau of Reclamation, Revised Edition, 1984, 343 pp. (Order by NTIS No. PB-85221109.)

"Flow Measurement in Open Channels and Closed Conduits," U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 484, October 1977, 982 pp. (Order by NTIS No. PB-273535.)

"NPDES Compliance Flow Measurement Manual," U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-77, September 1981, 149 pp. (Order by NTIS No. PB-82131178.)

3. Monitoring Procedures

Monitoring results 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.

[40 CFR § 122.41(j)(4)]

4. Penalties for Tampering

The Clean Water Act 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.

[40 CFR § 122.41(j)(5)]

5. Retention of Records

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.

[40 CFR § 122.41(j)(2)]

6. Record Contents

Records of monitoring information shall include:

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

[40 CFR § 122.41(j)(3)(i)-(vi)]

7. Inspection and Entry

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:

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

[40 CFR § 122.41(i)(1)-(4)]

SECTION D. REPORTING REQUIREMENTS

1. Change in Discharge

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:

- a. 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
- b. 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 Section D, Subsection 11.

- c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and 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.

[40 CFR § 122.41(l)(1)(i)-(iii)]

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.

[40 CFR § 122.41(l)(2)]

Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during noncritical water quality periods and carried out in a manner approved by the Director.

3. Transfer of Ownership of Control

- a. 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 Clean Water Act.

[40 CFR § 122.41(l)(3)]

- b. In some cases modification or revocation and reissuance is mandatory.

[40 CFR § 122.61]

- c. Automatic transfers. As an alternative to transfers of permits by modification, 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 Subparagraph b.(2) of this subsection;
- (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 Subparagraph b.(2) of this subsection.

[40 CFR § 122.61(b)]

4. Monitoring Reports

Monitoring results shall be reported at the intervals specified in Part III of the permit.
[40 CFR § 122.41(l)(4)]

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.
[40 CFR § 122.41(l)(4)(i)]

5. Additional Monitoring by the Permittee

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 136 unless otherwise specified in 40 CFR part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.
[40 CFR § 122.41(l)(4)(ii)]

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.
[40 CFR § 122.41(l)(4)(iii)]

7. 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.
[40 CFR § 122.41(l)(5)]

Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

8. Twenty-Four Hour Reporting

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 steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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 § 122.44(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)]

The Director may waive the written report on a case-by-case basis for reports under this subsection if the oral report has been received within 24 hours.

[40 CFR § 122.41(i)(6)]

9. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Section D at the time monitoring reports are submitted. The reports shall contain the information listed in Section D, Subsection 8.

[40 CFR § 122.41(i)(7)]

10. 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 to the Director.

[40 CFR § 122.41(i)(8)]

11. Changes in Discharge of Toxic Substances

The following conditions apply to all NPDES permits within the categories specified below:

- a. *Existing manufacturing, commercial, mining, and silvicultural dischargers.* All existing manufacturing, commercial, mining, and silvicultural 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":
 - (a) One hundred micrograms per liter (100 µg/l);

- (b) Two hundred micrograms per liter (200 $\mu\text{g/l}$) for acrolein and acrylonitrile; five hundred micrograms per liter (500 $\mu\text{g/l}$) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony; or
- (c) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR § 122.21(g)(7).

[40 CFR § 122.42(a)(1)(i-iii)]

- (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":

- (a) Five hundred micrograms per liter (500 $\mu\text{g/l}$);
- (b) One milligram per liter (1 mg/l) for antimony; or
- (c) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR § 122.21(g)(7).

[40 CFR § 122.42(a)(2)(i-iii)]

- b. *Publicly owned treatment works.* All POTWs must provide adequate notice to the Director of the following:

- (1) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to Section 301 or 306 of CWA if it were directly discharging those pollutants; and
- (2) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- (3) For purposes of this paragraph, adequate notice shall include information on
 - (a) the quality and quantity of effluent introduced into the POTW, and
 - (b) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

[40 CFR § 122.42(b)]

12. 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.

[40 CFR § 122.41(b)]

The application should be submitted at least 180 days before the expiration date of this permit. The Regional Administrator may grant permission to submit an application later than the 180 days in advance, but no later than the permit expiration date.

[40 CFR § 122.21(d)]

When EPA is the permit-issuing authority, the conditions of an expired permit continue in force under 5 U.S.C. 558(c) until the effective date of a new permit if the permittee has submitted a timely application under this subsection which is a complete application for a new permit; and the Regional Administrator, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit.

[40 CFR § 122.6(a)]

Permits continued under this section remain fully effective and enforceable.

[40 CFR § 122.6(b)]

13. Signatory Requirements

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

[40 CFR § 122.41(k)(1)]

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:

- (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
- (b) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

NOTE: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in this subparagraph. 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 this subparagraph 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:

- (a) the chief executive officer of the agency, or
- (b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (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 a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (a duly authorized representative may thus be either a named individual or 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."

[40 CFR § 122.22]

14. 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 Permit Issuing Authority. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

[40 CFR §§ 124.18 & 122]

15. Penalties for Falsification of Reports

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 six (6) months per violation, or by both.

[40 CFR § 122.41(k)(2)]

SECTION E. DEFINITIONS

1. Permit Issuing Authority

The Regional Administrator of EPA Region 4 or his/her designee is the "Permit Issuing Authority," unless at some time in the future the State or Indian Tribe receives authority to administer the NPDES program and assumes jurisdiction over the permit; at which time, the Director of the State program receiving the authorization becomes the issuing authority.

The use of the term "Director" in this permit shall apply to the Regional Administrator of EPA, Region 4.
[40 CFR § 122.2]

2. Act

"Act" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, 33 U.S.C. 1251 et seq.
[40 CFR § 124.2]

3. Discharge Monitoring Report (DMR)

"Discharge Monitoring Report" means the EPA national form (Form 3320-1) including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. EPA will prepare and mail "pre-printed" DMR forms to permittees for completion. These "pre-printed" DMR forms will indicate the appropriate reporting requirements and limitations as found in Part I of the permit.
[40 CFR § 122.2]

4. Measurements

- 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 (i.e., concentration), the “daily discharge” is calculated as the average measurement of the pollutant over the day.

- b. The **“average annual discharge limitation”** means the highest allowable average of “daily discharges” over a period of twelve consecutive calendar months, calculated as the “arithmetic mean” of the monthly averages for the current calendar month and the eleven prior calendar months. The annual average is calculated each month.

This limitation is identified as “Annual Average” in Part I of the permit.

- c. The **“average monthly discharge limitation”** other than for bacterial indicators, 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.

For bacterial indicators, the “average monthly discharge limitation” is calculated using a “geometric mean.”

This limitation is identified as “Monthly Average” or “Daily Average” in Part I of the permit.

- d. The **“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.

This limitation is identified as “Weekly Average” in Part I of the permit.

- e. The **“maximum daily discharge limitation”** means the highest allowable “daily discharge.”

This limitation is identified as “Daily Maximum” in Part I of the permit.

[40 CFR § 122.2]

5. Types of Samples

- a. **Composite Sample:** A “composite sample” is a combination of not less than eight influent or effluent portions (aliquots), of at least 100 ml, collected over the full time period specified in Part I of the permit. The composite sample must be flow proportioned by either a time interval between each aliquot, or by volume as it relates to effluent flow at the time of sampling, or by total flow since collection of the previous aliquot. Aliquots may be collected manually or automatically.
- b. **Grab Sample:** A “grab sample” is a single influent or effluent portion which is not a composite sample. The sample(s) shall be collected at the period(s) most representative of the total discharge.

6. Calculation of Means

- a. **Arithmetic Mean:** The “arithmetic mean” of any set of values is the sum of the individual values divided by the number of individual values.
- b. **Geometric Mean:** The “geometric mean” of any set of values is the N^{th} root of the product of the individual values where N is equal to the number of individual values. The geometric mean is equivalent to the antilog of the arithmetic mean of the logarithms of the individual values. For purposes of calculating the geometric mean, values of zero (0) shall be considered to be one (1).

7. Hazardous Substance

A “hazardous substance” means any substance designated under 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act.

[40 CFR § 122.2]

8. Toxic Pollutants

A “toxic pollutant” is any pollutant listed as toxic under Section 307(a)(1) of the Clean Water Act or, in the case of “sludge use or disposal practices,” any pollutant identified in regulations implementing Section 405(d) of the Clean Water Act.

[40 CFR § 122.2]

PART III

Other Requirements

A. Reporting of Monitoring Results

Monitoring results obtained for each month shall be summarized for that month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed quarter. (For example, data for January through March shall be submitted by April 28.) Signed copies of these, and all other reports required by Section D of Part II, Reporting Requirements, shall be submitted to the Permit Issuing Authority at the following address:

Environmental Protection Agency
Region 4
Municipal & Industrial Enforcement Section
Clean Water Enforcement Branch
Water Protection Division
61 Forsyth St., SW
Atlanta, GA 30303-8960

If no discharge occurs during the reporting period, sampling requirements of this permit do not apply. The statement "No Discharge" shall be written on the DMR Form. If, during the term of this permit, the facility ceases discharge to surface waters, the Permit Issuing Authority shall be notified immediately upon cessation of discharge. This notification shall be in writing.

B. Reopener Clause

This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation, or sludge disposal requirement issued or approved under Sections 301(b)(2)(C) & (D), 307(a)(2), and 405(d)(2)(D) of the Clean Water Act, as amended, if the effluent standard, limitation, or sludge disposal requirement so issued or approved:

- a. Contains different conditions or is otherwise more stringent than any condition in the permit; or
- b. Controls any pollutant or disposal method not addressed in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

C. Special POTW Requirements

a. Change in Discharge

In the case of a publicly owned treatment works (POTW) any anticipated changes in the facility discharge, including any new significant industrial discharge or significant changes in the quantity or quality of existing industrial discharges to the treatment system which will result in new or increased discharges of pollutants, must be reported to the Permit Issuing Authority. Modifications to the permit may then be made to reflect any necessary effluent limitations for any pollutants not identified and limited herein. The permittee may be required to develop a local pretreatment program, if the industrial wastes are regulated by Federal Categorical Standards or cause interference at the POTW.

b. Control of User Discharges to the System

1. Under no circumstances shall the permittee allow introduction of the following pollutants into the waste treatment system:
 - a) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 °F or 60 °C using the test methods specified in 40 CFR § 261.21;
 - b) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the treatment works is specifically designed to accommodate such discharges;
 - c) Solid or viscous pollutants in amounts which will cause obstruction to the flow in sewers, or other interference with the operation of the POTW;
 - d) Any pollutant including oxygen demanding pollutants (BOD, etc.), released in a discharge of such volume or strength as to cause interference in the POTW;
 - e) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment works influent exceeds 40 °C (104 °F) unless the treatment works is designed to accommodate such heat;
 - f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
 - g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and/or
 - h) Any trucked or hauled pollutants except at discharge points designated by the POTW.

2. The permittee shall notify the Permit Issuing Authority of any of the following changes in user discharge to the system no later than 180 days prior to change in discharge:
 - a) New introduction into such works of pollutants from any source which would be a new source as defined in Section 306 of the Act, if such source were discharging pollutants.
 - b) New introduction of pollutants into such works from a source which would be subject to Section 301 or Section 307 of the Act, if it were discharging such pollutants.

PART IV
Whole Effluent Toxicity Testing Program

As required by Part I of this permit, the permittee shall initiate the series of tests described below beginning in August 2008 to evaluate whole effluent toxicity of the discharge from outfall 001. All test species, procedures and quality assurance criteria used shall be in accordance with Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, EPA/821/R-02/013, or the most current edition. The dilution/control water used will be a moderately hard water as described in EPA/821/R-02/013, Section 7 (or the most current edition). A chronic standard reference toxicant quality assurance test shall be conducted concurrently with each species used in the toxicity tests and the results submitted with the Discharge Monitoring Report (DMR) Form. Alternatively, if monthly QA/QC reference toxicant tests are conducted, these results must be submitted with the DMR Form.

1. a. The permittee shall conduct multi-concentration daphnid (Ceriodaphnia dubia) Survival and Reproduction and Fathead Minnow (Pimephales promelas) Larval Survival and Growth Tests. All tests shall be conducted on a control (0%) and the following dilution concentrations at a minimum: 100.0 %, 72.5 %, 36.2 %, 18.1 % and 9.1 %. Unacceptable chronic toxicity will be demonstrated if either test results in an inhibition concentration causing 25% reduction in survival, reproduction, and/or growth (IC₂₅) of the test organisms (IC₂₅) in less than or equal to 72.5 % effluent, which is the Receiving Water Concentration (RWC) of the effluent at critical conditions. The IC₂₅ shall be determined based on a 25% reduction as compared to the controls, and as derived from linear interpolation. The average reproduction and growth responses will be determined based on the number of Ceriodaphnia dubia and Pimephales promelas larvae, as appropriate, used to initiate the test.
- b. For each set of tests conducted, a minimum of three different 24-hour composite samples of final effluent shall be collected and used per the sampling schedule of Section 8.3.2, EPA/821/R-02/013 (or the most current edition). All test solutions shall be renewed daily. If test results do not meet the acceptability criteria of Section 13.11 or 11.11, respectively, EPA/821/R-02/013 (or the most current edition), that test shall be repeated. Additionally, all test results must be evaluated and reported for concentration-response relationship based on AMethod Guidance and Recommendations for Whole Effluent Toxicity (WET) Testing (40 C.F.R. Part 136)e, EPA/821/B-00/004 (2000), or the most current edition. If the required concentration-response review fails to yield a valid relationship per EPA/821/B-00/004 (or the most current edition), that test shall be repeated. Any test initiated but terminated prior to completion must be reported with a complete explanation for the termination. A chronic test will be considered valid only if the acceptability criteria referenced above are met.

- c. If control mortality exceeds 20 % for either species in any test, the test(s) for that species (including the control) shall be repeated. A test will be considered valid only if control mortality does not exceed 20 % for either species. If, in any separate test, 100% mortality occurs prior to the end of the test, and control mortality is less than 20% at that time, that test (including the control) shall be terminated with the conclusion that the sample demonstrates unacceptable chronic toxicity.
 - d. Results from all tests shall be reported according to EPA-821-R-02-013, Section 10, or the most current edition. All results shall be recorded and submitted on the DMR in the following manner: if the monthly average IC₂₅ of a test species is less than or equal to 72.5% effluent, " $\leq 72.5\%$ " shall be entered on the DMR for that species. If the monthly average IC₂₅ of a test species is greater than 72.5% effluent, " $>72.5\%$ " shall be entered. All individual test results for a given month shall be submitted as an attachment to the DMR.
2. The toxicity tests specified above shall be conducted once every year for the duration of the permit, unless notified otherwise by the permit issuing authority. These tests are referred to as "routine" tests.
 3. a. If unacceptable chronic toxicity (an IC₂₅ less than or equal to 72.5 % in either test) is found in a routine test, the permittee shall conduct two additional toxicity tests on the specie(s) indicating unacceptable toxicity. For each additional test, the sample collection requirements and test acceptability criteria specified in Section 1(b) and 1(c) above must be met for the test to be considered valid. The first test shall begin within two weeks of the end of the routine test and the second test shall be conducted two weeks later. If either or both of these tests are invalid, additional test(s) are to be conducted every two weeks until two valid tests are completed (e.g., if the first test is valid and the second test is not, the permittee shall continue to conduct tests until one more test is valid). The additional tests will be used to determine if the toxicity found in the routine test is still present.
 1. For routine tests with unacceptable chronic toxicity, additional daphnid (Ceriodaphnia dubia) Survival and Reproduction and/or fathead minnow (Pimephales promelas) Survival and Growth multi-concentration tests shall be conducted, as appropriate. All tests shall be conducted on a control (0 %) and the following dilution concentrations at a minimum: 100.0 %, 72.5 %, 36.2 %, 18.1 % and 9.1 %. The sample collection requirement specified in Section 1(b) above must be met.
 - b. Results from additional tests, required due to unacceptable chronic toxicity in the routine test, must be reported on the DMR Form of the month in which the test was begun. Such test results must be submitted within 45 days of completion of the second additional, valid test.

DATE: March 18, 2015

AMENDMENT TO THE FACT SHEET AT THE TIME OF MODIFICATION

APPLICATION NO: MS0058645

NAME OF APPLICANT: New Harmony WWTP

The above permit was issued last July 2014. The purpose of this amendment is to modify the Whole Effluent Toxicity (WET) testing requirement of the permit. The modification to the permit requires once a year WET testing for the first year of the permit cycle rather than bimonthly as stated in the original permit. This facility passed the WET test with no evidence of toxicity in the last five years of the previous permit cycle. Under the facility's previous permit, the WET testing was reduced from bimonthly to once per year after the first year of the permit showed no toxicity. Following the fifth year of the last permit cycle, the WET testing requirement for the first year of this current cycle should have been just once a year as in the case of last four years and is as follows:

On Page IV-2 of the permit, under item# 2, the WET testing was required to be stated as "The toxicity tests specified above shall be conducted once every two months until six valid bimonthly tests have been completed and once every year for the rest of the duration of the permit. These tests are referred to as routine tests".

This WET testing requirement is now modified to read "The toxicity tests specified above shall be conducted once every year for the duration of the permit. These tests are referred to as routine tests".

**ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

**POLLUTION CONTROL AND IMPLEMENTATION BRANCH
WATER PROTECTION DIVISION**

EVIDENTIARY HEARING PROCEDURES

The following is a list of acronyms/abbreviations used:

EPA	Environmental Protection Agency
NPDES	National Pollutant Discharge Elimination System
PSD	Prevention of Significant Deterioration
RCRA	Resource Conservation and Recovery Act
UIC	Underground Injection Control
U.S.C.	United States Code

The following regulation discusses the appeal procedures for NPDES permits and is cited from the regulations as found in Title 40, Code of Federal Regulations (40 CFR) Part 124--Procedures for Decisionmaking, Subpart A-General Program Requirements, Volume 21. pages 283-285, revised as of July 1, 2005.

Section 124.19 Appeal of RCRA, UIC, NPDES, and PSD Permits.

(a) Within 30 days after a RCRA, UIC, NPDES, or PSD final permit decision (or a decision under 270.29 of this chapter to deny a permit for the active life of a RCRA hazardous waste management facility or unit) has been issued under Section 124.15 of this part, any person who filed comments on that draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision. Persons affected by an NPDES general permit may not file a petition under this section or otherwise challenge the conditions of the general permit in further Agency proceedings. They may, instead, either challenge the general permit in court, or apply for an individual NPDES permit under Section 122.21 as authorized in Section 122.28 and then petition the Board for review as provided by this section. As provided in Section 122.28(b)(3), any interested person may also petition the Director to require an individual NPDES permit for any discharger eligible for authorization to discharge under an NPDES general permit. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. The 30-day period within which a person may request review under this section begins with the service of notice of the Regional Administrator's action unless a later date is specified in that notice. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations and when appropriate, a showing that the condition in question is based on:

- (1) A finding of fact or conclusion of law which is clearly erroneous, or
- (2) An exercise of discretion or an important policy consideration which the Environmental Appeals Board should, in its discretion, review.

(b) The Environmental Appeals Board may also decide on its own initiative to review any condition of any RCRA, UIC, NPDES, or PSD permit decision issued under this part for which review is available under paragraph (a) of this section. The Environmental Appeals Board must act under this paragraph within 30 days of the service date of notice of the Regional Administrator's action.

(c) Within a reasonable time following the filing of the petition for review, the Environmental Appeals Board shall issue an order granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action. Public notice of any grant of review by the Environmental Appeals Board under paragraph (a) or (b) of this section shall be given as provided in Section 124.10. Public notice shall set forth a briefing schedule for the appeal and shall state that any interested person may file an amicus brief. Notice of denial of review shall be sent only to the person(s) requesting review.

(d) The Regional Administrator, at any time prior to the rendering of a decision under paragraph (c) of this section to grant or deny review of a permit decision, may, upon notification to the Board and any interested parties, withdraw the permit and prepare a new draft permit under Section 124.6 addressing the portions so withdrawn. The new draft permit shall proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this part. Any portions of the permit which are not withdrawn and which are not stayed under Section 124.16(a) continue to apply.

(e) A petition to the Environmental Appeals Board under paragraph (a) of this section is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final agency action.

(f) (1) For purposes of judicial review under the appropriate Act, final agency action occurs when a final RCRA, UIC, NPDES, or PSD permit decision is issued by EPA and agency review procedures under this section are exhausted. A final permit decision shall be issued by the Regional Administrator:

(i) When the Environmental Appeals Board issues notice to the parties that review has been denied;

(ii) When the Environmental Appeals Board issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or

(iii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Environmental Appeals Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

(2) Notice of any final agency action regarding a PSD permit shall promptly be published in the Federal Register.

(g) Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision shall be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration directed to the administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to Section 124.2 and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.

[48 FR 14264, April 1, 1983, as amended at 54 FR 9607, March 7, 1989; 57 FR 5335, February 13, 1992; 65 FR 30911, May 15, 2000]