

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

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

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

Transit Waste LLC

is authorized to discharge from the Bondad Landfill Stormwater Lagoon outfall located in the SW 1/4 of Section 31, Township 33N, Range 9W, latitude 37.054166° N and longitude 107.862500° W, La Plata County,

to an unnamed drainage channel that discharges to an unnamed tributary of the Animas River

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

This Permit shall become effective October 1, 2021

This Permit and the authorization to discharge shall expire at midnight, September 30, 2026

Authorized Permitting Official
Humberto Garcia, Acting Director
Water Division

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1 Definitions

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

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

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

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

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

EPA means the United States Environmental Protection Agency, the Regional Administrator of the EPA Region 8, or an authorized representative.

E. coli means *Escherichia coli*.

Forecasted Storm Event means a rainfall event predicted to have greater than 0.1 inch of rainfall and at least 72 hours from the previously measurable, greater than 0.1 inch rainfall, storm event (40 CFR 122.21(g)(7)(ii))

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

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

Permit, defined as the NPDES permit in which “Permit” and corresponding statement of basis is written.

Permittee means the “person” as defined by section 502(5) of the Act authorized to discharge under the Permit.

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.

Stormwater means stormwater runoff, snow melt runoff, and surface runoff and drainage.

Sufficiently Sensitive – An analytical chemical-specific test method is sufficiently sensitive when:

- The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or

The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter.

Target BMP is a BMP which is identified and subsequently modified after an exceedance of effluent limitations has occurred.

Uncontrolled release is defined as the current method for stormwater discharge at the facility. The stormwater lagoon only discharges during storm events which produce enough runoff to over fill the stormwater lagoon and cause a discharge. Since discharge is caused by storm events and not the activities of Bondad landfill it is considered uncontrolled. This description does not allow for reduced implementation of best management practices or other pollution “controls”.

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.

2 Description of Discharge Point(s)

The authorization to discharge provided under this Permit is limited to the outfall specifically designated below as discharge location. Discharges at any location not authorized under a NPDES Permit is a violation of the Clean Water Act and could subject the person(s) responsible for such discharge to penalties under Section 309 of the Act. Refer to Section 7.1 for additional restrictions on required methods for discharges from Outfall 001A and 001L.

Table 1 – Outfalls and Monitoring Locations Permitted

Outfall Serial Number	Latitude/Longitude	Receiving Water	Location Description
001A	37.054166° N, 107.862500° W	An unnamed tributary of the Animas River	Any discharge from the Bondad landfill stormwater lagoon via the culvert under the access road to the unnamed drainage channel located at
001L	N/A	N/A	Monitoring location in the stormwater lagoon for monitoring requirements when no discharge is occurring. (See Section 4)

3 Effluent Limitations

Outfall 001A: Effective immediately and lasting through the life of this Permit, the quality of stormwater discharged by the facility shall, at a minimum, meet the limitations as set forth below:

Table 2 Effluent Limitations

Effluent Characteristic	30 Day Average <u>a/</u>	Daily Maximum <u>a/</u>
Biochemical Oxygen Demand (BOD ₅), mg/L	37	140
Total Suspended Solids (TSS), mg/L	27	88
Oil and Grease (O&G), mg/L	N/A	10
Total Ammonia Nitrogen (as N), mg/L	4.9	1.06
α -Terpineol, mg/L	0.016	0.033
Benzoic acid, mg/L	0.071	0.12
<i>p</i> -Cresol, mg/L	0.014	0.025
Phenol, mg/L	0.015	0.026
Total Zinc, mg/L	0.11	0.20

Effluent Characteristic	30 Day Average a/	Daily Maximum a/
The pH of the discharge shall not be less than 6.5 or greater than 9.0 standard units at any time.	N/A	N/A

a/ See Definitions, section 1, for definition of terms.

In the event that an effluent limitation is exceeded, the Permittee must review activities in the Stormwater Pollution Prevention Plan (SWPPP) to identify and target Best Management Practices (BMPs) that are intended to control the pollutant that was exceeded within seven days of receiving the effluent data. The Permittee must document the target BMPs (see Definitions, Section 1) and describe the modifications that will be made to bring discharges from the facility into compliance. The target BMP and corrective action must be completed and documented in the SWPPP within 30 days of the effluent violation.

4 Self-Monitoring Requirements – Outfalls 001A and 001L

Effective immediately and lasting through the effective term of this Permit. Sampling and test procedures for pollutants listed in this part shall be in accordance with guidelines promulgated by the Administrator in 40 CFR Part 136 unless other test procedures have been specified in this Permit. At a minimum, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report no discharge or overflow occurred.

The discharge during construction the first six months of the Permit may be an uncontrolled release (See Definitions Section 1). Under these conditions, the facility must conduct monitoring activities during storm influenced discharges. If a discharge starts during business hours, the monitoring activities must be conducted within the first 30 minutes of discharge. If a discharge is occurring at the commencement of the day’s business activities, then monitoring activities must be conducted in the first 30 minutes of the business day. If the discharge lasts more than 24 hours, the facility must conduct the monitoring activities on a daily basis until the discharge is ceased.

Once the device to contain stormwater and allow controlled releases required in Section 7.1 is constructed, Bondad must monitor with a representative sample during every discharge. If evidence is present that a discharge occurred during non-business hours over an emergency overflow or spillway described in Section 7.3, then monitoring samples must be taken from the lagoon’s contents in the first 30 minutes of business activities on the business day following the discharge.

Table 3 Monitoring Requirements

Effluent Characteristic	Frequency	Sample Type a/
Total Flow, gallons	Each Discharge	Calculation from instantaneous measurements

Biochemical Oxygen Demand (BOD5), mg/L	Each Discharge	Grab <u>a/</u>
Total Suspended Solids (TSS), mg/L	Each Discharge	Grab <u>a/</u>
Oil and Grease (O&G) <u>b/</u> , mg/L	Each Discharge	Grab <u>a/</u>
Total Ammonia Nitrogen (as N), mg/L	Each Discharge	Grab <u>a/</u>
α -Terpineol, mg/L	Each Discharge	Grab <u>a/</u>
Benzoic acid, mg/L	Each Discharge	Grab <u>a/</u>
p -Cresol, mg/L	Each Discharge	Grab <u>a/</u>
Phenol, mg/L	Each Discharge	Grab <u>a/</u>
Total Zinc, mg/L	Each Discharge	Grab <u>a/</u>
pH, standard units	Each Discharge	Grab <u>a/</u>
Chemical Oxygen Demand (COD), mg/L <u>b/</u>	Each Discharge	Grab <u>a/</u>
Polycyclic Aromatic Hydrocarbons (PAHs) mg/L <u>b/ c/</u>	Each Discharge	Grab <u>a/</u>
Per- and polyfluoroalkyl substances (PFAS) mg/L <u>d/</u>	Once per year <u>d/</u>	Grab <u>a/</u>

a/ See Definitions, Section 1 for definition of terms.

b/ COD and PAH monitoring are only required if stormwater from the gas lease area operated by Red Willow is not contained and redirected away from the stormwater lagoon.

c/ Monitoring is required for the 16 individual PAHs identified at Appendix A to 40 CFR Part 423: naphthalene, acenaphthylene, acenaphthene, fluorene, phenanthrene, anthracene, fluoranthene, pyrene, benzo[a]anthracene, chrysene, benzo[b]fluoranthene, benzo[k]fluoranthene, benzo[a]pyrene, benzo[g,h,i]perylene, indeno[1,2,3-c,d]pyrene, and dibenz[a,h]anthracene.

d/ PFAS currently does not have an EPA approved 40 CFR 136 analytical method. Upon EPA developing a multi-lab validated test method and making it available to the public, the discharge must be monitored once per year for PFAS. If no discharges occur during the year, then the lagoon contents must be monitored once per year when the lagoon is emptied. The monitoring is required to be performed at 001-L and will be report only. The sample must be representative of the contents of the lagoon. The Permittee must report a PFAS monitoring result (discharge from 001-A, or lagoon at 001-L) for each complete year of permit coverage after the EPA approval of an analytical method.

5 Stormwater Pollution Prevention Plan

A stormwater pollution prevention plan (SWPPP) must be developed specifically for the landfill. Any SWPPP that does not meet the requirements listed below must be amended to conform with the SWPPP requirements in this Permit. Such amendments must be completed within 60 days after the effective date of the Permit.

5.1 Stormwater Pollution Prevention Plan Contents:

The SWPPP must include the following items, at a minimum:

5.1.1 Industrial Activity Description. The SWPPP shall provide a narrative description of the industrial activity taking place at the site.

5.1.2 Site Map.

The SWPPP shall include a site map indicating the following:

5.1.2.1 The areas where industrial activities occur;

5.1.2.2 The locations of stormwater outfalls and an approximate outline of the areas draining to each outfall;

5.1.2.3 The locations of paved areas and buildings within the drainage area of each stormwater outfall;

5.1.2.4 The locations of each past or present area used for outdoor storage or disposal of significant materials;

5.1.2.5 The locations areas where pesticides, herbicides, soil conditioners, and fertilizers are applied;

5.1.2.6 The locations of leachate and methane collection and recovery systems;

5.1.2.7 The locations of active and closed landfill cells or trenches, active and closed land application areas, locations where open dumping is occurring or has occurred, and locations of any known leachate springs or other areas where uncontrolled leachate may commingle with runoff;

5.1.2.8 The locations of existing and new structural control measures designed to reduce pollutants in stormwater runoff and divert run-on from commingling with landfill wastewater;

5.1.2.9 The locations and sources of run-on to the site;

5.1.2.10 The location and description of non-stormwater discharges;

5.1.2.11 Locations of potential pollutant sources as identified in Parts 6.2 and 6.3;

5.1.2.12 Locations where significant spills or leaks as identified in Part 6.4 occurred;

5.1.2.13 Locations of stormwater inlets and outfalls; and

5.1.2.14 Areas used for the treatment, storage, or disposal of wastes.

5.2 Stormwater Management Controls:

Document in the SWPPP the BMPs installed and any modifications or maintenance performed as required in Section 6.

5.3 For stormwater/leachate land application sites:

Track the date, types and quantities of wastes applied on each cell.

5.4 Inspection Reports:

Include in the SWPPP observations and resulting actions from the inspections required in this Permit:

- Comprehensive Facility Inspection (Section 6.9)
- Inspection prior to and immediately after Forecasted Storm Events (Section 6.10)
- Weekly preventative maintenance inspections (Section 6.3.2)

5.5 SWPPP Administrator:

The SWPPP must identify a SWPPP administrator within the organization who is responsible for developing the SWPPP and assisting in implementation, maintenance, and revision. The SWPPP must identify the position at the facility responsible for fulfilling these duties. (Facility Manager, Environmental Officer, Operations Supervisor etc.) The activities and responsibilities of the SWPPP administrator shall address all aspects of the facility's SWPPP.

5.6 Operator Review/Change:

The Permittee must amend the SWPPP whenever there is a change in design, operation, or maintenance which has an effect on the potential for the discharge of pollutants. The Permittee must amend the SWPPP if the facility specific BMPs are found to be ineffective. If existing BMPs need to be modified or if additional BMPs are necessary, the planned changes and implementation must be completed as soon as practicable, but not more than 30 days after: the change in design, construction, operation, or maintenance, or; the date the SWPPP has been determined to be ineffective, unless this time frame is extended by the EPA authorized representative. Amendments to the SWPPP shall be summarized and a running log of the changes must be kept in the SWPPP.

5.7 Monitoring Personnel, Equipment and Supplies:

The SWPPP must contain detailed information on the procedures for monitoring, the personnel responsible for conducting monitoring activities, the location of monitoring supplies and equipment, and identify the laboratory used for each analyte.

5.8 SWPPP Availability:

All documents required under this Permit are considered reports that must be available to the public under Section 308(b) of the Clean Water Act. EPA may make SWPPPs available to members of the public upon request. However, the operator may claim any portion of a SWPPP as confidential in accordance with 40 CFR Part 2.

6 Best Management Practices (BMPs)

The Permittee must identify, describe, and implement BMPs that will remove, reduce, or otherwise prevent pollutants in stormwater discharges. The BMPs must include the stormwater management controls identified in Parts 6.1 through 6.9. If any of the requirements are not applicable to the facility, the SWPPP must include a written explanation of inapplicability. If existing controls need to be modified or if additional controls are necessary, new controls must be implemented as soon as

reasonable and practicable but not later than 30 days from the date of observation. Failure to take corrective actions within this timeframe is a violation of this permit.

6.1 Housekeeping:

The Permittee must:

- 6.1.1 Implement controls to reduce or prevent material tracking (e.g., sediment, debris, plastic bags) offsite;
- 6.1.2 Cover all stored industrial materials (including salt used for deicing that can be readily mobilized by contact with stormwater);
- 6.1.3 Contain all stored non-solid industrial materials (such as liquids and powders) that can be transported or dispersed via wind dissipation or contact with stormwater; and
- 6.1.4 Provide and maintain stabilized diversion channels to divert stormwater from the active portion of the landfill.

6.2 Identification of Potential Pollutant Sources and corresponding BMPs:

The Permittee must:

- 6.2.1 Address the following potential sources of pollutants and implement BMPs to reduce the potential of these sources to contribute pollutants to stormwater discharges: fertilizer, herbicide, and pesticide application; earth and soil moving; waste hauling and loading or unloading; outdoor storage of significant materials, including daily, interim, and final cover material stockpiles as well as temporary waste storage areas; exposure of active and inactive landfill cells and stormwater/leachate land application areas; uncontrolled leachate flows; and failure or leaks from leachate collection and treatment systems.
- 6.2.2 Maintain a list of spills and leaks that occur and document them in the SWPPP.

6.3 Preventative Maintenance:

Preventative maintenance BMPs generally include the regular inspection and maintenance of facility equipment and systems used outdoors (such as forklifts, process machinery, storage containers, etc) to prevent spills and leaks from occurring due to age, use, malfunction, or damage. The Permittee must:

- 6.3.1 Identify all equipment used outdoors that may spill or leak pollutants;
- 6.3.2 Inspect weekly each of the identified equipment and systems to detect leaks or identify conditions that may result in the development of leaks. These inspections are to be documented in the SWPPP. The documentation must include the name of the person performing the inspection, time and date of the inspection as well as any findings from the inspection and resulting actions. Weekly inspections may be suspended during periods when there is no outdoor exposure of the equipment and systems;
- 6.3.3 Establish a schedule to perform maintenance of identified equipment and systems. The schedule shall either be periodic or based upon more appropriate intervals such as hours of use, mileage, age, etc; and

- 6.3.4 Establish procedures for prompt maintenance and repair of equipment and systems when conditions exist that may result in the development of spills or leaks or failure of collection, recapture, and diversion systems.

6.4 Spill Prevention and Response Procedures:

The Permittee must:

- 6.4.1 Develop and implement spill response procedures. Response procedures must include notification of appropriate facility personnel, emergency agencies, and regulatory agencies, and procedures for stopping, containing and cleaning up spills. Measures for cleaning up hazardous material spills or leaks must be consistent with applicable Resource Conservation and Recovery Act (RCRA) regulations at 40 CFR Part 264 and 40 CFR Part 265;
- 6.4.2 Provide preventative measures to prevent spills from discharging from the facility via the storm drain. These must include barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;
- 6.4.3 Identify and describe all necessary and appropriate spill response equipment, location of spill response equipment, and spill response equipment maintenance procedures; and
- 6.4.4 Identify and train spill response personnel. Keep documentation of training in the SWPPP. 80% of onsite staff must be trained in compliance with the requirements of this permit once every two years.

6.5 Material Handling/Waste Management:

The Permittee must:

- 6.5.1 Prevent or minimize handling of materials or wastes that can be readily mobilized by contact with stormwater during a storm event;
- 6.5.2 Divert run-on from material handling/waste management/storage areas;
- 6.5.3 Contain non-solid materials or wastes that can be dispersed via wind erosion during handling; and
- 6.5.4 Clean all spills of materials/wastes that occur during handling in accordance with the spill response procedures required in Part 6.4

6.6 Employee Training:

The Permittee must:

- 6.6.1 Establish a facility point of contact responsible for maintaining an employee training program. This person should be familiar with the day-to-day operations at the landfill;
- 6.6.2 Prepare or acquire appropriate training materials which describe the inspection procedures required by this permit, applicable recordkeeping requirements, the structural BMPs on site and how they need to be maintained, and spill response and reporting requirements;
- 6.6.3 Identify which personnel shall be trained, their responsibilities, and the type of training they shall

receive;

6.6.4 Provide a training schedule; and

6.6.5 Maintain documentation of all completed training classes and the personnel who received training.

6.7 Record Keeping and Quality Assurance:

The Permittee must:

6.7.1 Keep and maintain records of inspections, spills, BMP related maintenance activities, corrective actions, visual observations, etc.; and

6.7.2 Develop and implement management procedures to ensure that the appropriate staff implements requirements of this permit.

6.8 Erosion and Sediment Control:

The Permittee must:

6.8.1 Implement erosion/sediment controls to divert runoff from areas subject to erosion;

6.8.2 Maintain erosion/sediment controls to achieve optimal performance during storm events; and provide temporary stabilization for the following: materials stockpiled for daily, intermediate, and final cover; inactive areas of the landfill or open dump; landfills or open dump areas that have gotten final covers but where vegetation has yet to establish itself; and land application sites where waste application has been completed but final vegetation has not yet been established.

6.9 Comprehensive Facility Inspections:

Qualified personnel identified in the SWPPP shall conduct a comprehensive inspection of the stormwater management system during the months of October and April. Comprehensive inspections must be documented and summarized in the SWPPP at the time of inspection. Qualified personnel are those who:

- Possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and;
- Are able to evaluate the effectiveness of BMPs selected.

6.9.1 The Permittee must inspect material handling areas, disturbed areas, areas used for material storage that are exposed to precipitation, and other potential sources of pollution identified in Parts 6.1-6.9 for evidence of, or the potential for, pollutants entering the stormwater drainage system. Structural stormwater management measures, sediment and control measures, and other structural pollution prevention measures must be observed to ensure that they are operating correctly. A visual inspection of equipment needed to prevent pollutant discharges, such as spill response equipment, shall be made to confirm that it is readily available and in proper working order;

6.9.2 Conduct repairs or maintenance as identified during the inspection, if the repairs are not completed the same day, summarize the steps and estimated time of completion in the SWPPP;

and

- 6.9.3 The Permittee must summarize the findings of each comprehensive inspection. The summary must include: the names of personnel making the inspection, the date(s) of the inspection, significant observations, and actions taken in accordance with Part 6.9.2. The summary must be retained for at least three years after the date of the inspection. Significant observations include the location and nature of discharges of pollutants from the site; locations of previously unidentified sources of pollutants; locations of BMPs needing maintenance or repair; locations of spills or direct discharges of process water; locations of failed BMPs that need replacement; and locations where additional BMPs are needed. The report must also document any incidents of noncompliance observed.
- 6.9.4 The Permittee must evaluate the stormwater conveyance system on the site for the presence of discharges other than stormwater. Where dry weather discharges are observed, the Permittee must perform inspections and provide information in the SWPPP on the results of any evaluations, the method(s) used, the date of the evaluation(s), and the on-site drainage points that were directly observed during the evaluation(s). The discharge test and certification must also be conducted for the presence of leachate and landfill wastewater.

6.10 Inspection Prior to and Immediately After Forecasted Storm Events:

An inspection must be performed before every Forecasted Storm Event (see Definitions Section 1), unless an inspection was conducted in the 7 days prior to the Forecasted Storm Event. For the purposes of this Permit, a Forecasted Storm is a rainfall event forecasted, by a weather service of the Permittee's choosing, with greater than 0.25 inch of rainfall and at least 72 hours from the previously measurable—greater than 0.25-inch rainfall—storm event. The Permittee shall inspect the stormwater lagoon to determine if a discharge is likely, housekeeping (see Part 6.1), preventative maintenance BMPs (see Part 6.3), areas of landfill cells that have not yet been finally stabilized, active land application areas, areas used for storage of material and wastes that are exposed to precipitation, stabilization and structural control measures including stormwater diversion channels, and locations where equipment and waste trucks enter and exit the site. Inspect leachate collection systems and methane recapture systems to prevent commingling with stormwater; inspect the integrity and effectiveness of any intermediate or final cover (including repairing the cover as necessary) to minimize the effects of settlement, sinking, and erosion; and inspect and evaluate the effectiveness of stormwater diversion channels to minimize erosion and maintain channel integrity. Ensure that sediment and erosion control measures are operating properly. The areas inspected, the inspector performing inspections, and the date of inspection must be documented in a paper or electronic log. The log shall document the amount of freeboard in the stormwater lagoon before the Forecasted Storm Event and a determination whether a discharge is likely based on the forecasted storm amount and freeboard. The Permittee must document whether the lagoon water is emptied and applied on the inactive cells of the landfill prior to the Forecasted Storm Event. After the storm event, the Permittee must inspect the outfall and associated discharge structures (e.g., emergency overflow or spillway, culvert) to determine if a discharge occurred. Any evidence of discharge in the drainage, such as recent erosion, ponding in the drainage or other signs of discharge shall be documented. If a discharge occurred, conduct the monitoring requirements in Section 4.

6.11 Outfall Signage:

Place a sign at the outfall identifying the facility, industrial activity and permit number associated with the outfall. The sign shall be permanent in nature and visible for 180 degrees at a distance of 20 feet. The sign must be installed within 60 days of the effective date of this Permit

7 Special Conditions

7.1 Controlled release of Stormwater:

No later than six months after the effective date of this Permit, the Permittee shall install an apparatus that will contain the stormwater in the lagoon for subsequent controlled release during business hours. After installation, all discharges shall be through a controlled release except in the event of precipitation greater than 1.34 inches, which causes the stormwater lagoon to discharge through an allowed emergency overflow (see Section 7.3).

7.2 Capacity of Stormwater Lagoon:

No later than six months after the effective date of this Permit, the Permittee must ensure that the stormwater lagoon maintains sufficient capacity and freeboard to completely contain 1.21 inches of runoff from precipitation events across the stormwater lagoon drainage area. The Permittee shall calculate the amount of freeboard required in the stormwater lagoon to meet this requirement and include the calculation in its SWPPP. The calculation shall be updated within 30 days in the event the size of the drainage area changes. The Permittee must install a depth gage in the lagoon that identifies the freeboard required to contain 1.21 inches of runoff from the area draining to the stormwater lagoon.

7.3 Emergency Discharges:

The lagoon may have an emergency overflow or spillway to prevent flooding of the facility during extreme storm events. The emergency overflow must be designed to allow for containment of 1.21 inches of runoff from precipitation before discharging. No later than six months after the effective date of this Permit, the Permittee must install an apparatus that will effectively identify whether an overflow discharge occurs.

7.4 Runoff from gas lease area:

This Permit is not intended to cover stormwater discharges from the gas lease area operated by Red Willow. The Permittee is required to work with Red Willow to redirect stormwater discharges away from the stormwater lagoon. If redirecting the stormwater from the gas lease area is not feasible, Bondad will be required to monitor for chemical oxygen demand (COD) and polycyclic aromatic hydrocarbons (PAH). See Section 4 of the Permit for more information on monitoring requirements.

7.5 Outfall maintenance and cleaning:

The outfall 001A structure and downstream drainage must be maintained in a manner to limit the amount of sediment mixed with stormwater during discharge. Pollutants such as sediment and debris in the culvert must be removed to the maximum extent practicable to prevent contamination of the stormwater in the period between when it enters the culvert from stormwater lagoon and discharges from the culvert to the drainage.

8 Monitoring, Record Keeping, and Reporting Requirements

8.1 Representative Sampling:

Samples taken in compliance with the monitoring requirements established under Section 4 shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use-disposal practice.

8.2 Monitoring Procedures:

Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136, unless other test procedures have been specified in this Permit. Sludge monitoring procedures shall be those specified in 40 C.F.R. 503, or as specified in the Permit. The Permittee must select a test procedure that is Sufficiently Sensitive for all monitoring conducted in accordance with this Permit.

8.3 Penalties for Tampering:

The Act provides that any person who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under this Permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or by both. 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.

8.4 Reporting of Monitoring Results:

With the effective date of this Permit, the Permittee must electronically report DMRs quarterly using NetDMR. Electronic submissions by the Permittee must be submitted to the EPA Region 8 no later than the 28th of the month following the completed reporting period. The Permittee must sign and certify all electronic submissions in accordance with the requirements of Section 10.7 of this Permit (“Signatory Requirements”). NetDMR is accessed from the internet at <https://netdmr.zendesk.com/home>.

Table 4 – DMR Due Dates

Compliance Monitoring Period	Due Date
January through March	April 28
April through June	July 28
July through September	October 28
October through December	January 28

In addition, the Permittee must submit a copy of the DMR to the Tribe. Currently, the Permittee may submit a copy to the Tribe by one of three ways: 1) a paper copy may be mailed (see Section 8.5 for a mailing address), 2) the Tribe’s email address may be added to the electronic submittal through NetDMR, or, 3) the Permittee may provide viewing rights to the Tribe through NetDMR.

8.5 Other Reporting Requirements:

Legible copies of all other reports required herein shall be signed and certified in accordance with the Signatory Requirements (see Section 10.7), and submitted to the EPA Region 8 Enforcement and Compliance Assurance Division, Water Enforcement Branch and the Tribes at the addresses given below:

original to:

U.S. EPA, Region 8
(8ENF-W)
Attention: DMR Coordinator
1595 Wynkoop Street
Denver, Colorado 80202-1129

copy to:

Environmental Programs Division Head
Southern Ute Indian Tribe
PO Box 737, Mail Slot 84
Ignacio, CO 81137-0737
Phone: 970-563-0384

Prior to December 21, 2025, all other reports required herein (e.g., sections 7.9 and 7.10) as well as sewer overflow event reports, shall be signed and certified in accordance with the Signatory Requirements (see section 10.7), and submitted to EPA Region 8 and Southern Ute Indian Tribe at the addresses given above. Effective no later than December 21, 2025, these reports shall be submitted electronically using the NPDES Electronic Reporting Tool (NeT). If the NeT tool is not available on December 21, 2025, the reports can continue to be submitted to the addresses above until the tool is available unless otherwise indicated in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR §122.22, and 40 CFR Part 127, should electronic reporting not be available by December 21, 2025.

8.6 Additional Monitoring by the Permittee:

If the Permittee monitors any pollutant in accordance with Section 4 more frequently than required by this Permit, using test procedures approved under 40 C.F.R. Part 136, 40 C.F.R. Part 503, or as specified in this Permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.

8.7 Records Contents:

Records of monitoring information shall include:

- 8.7.1 The date, exact place, and time of sampling or measurements;
- 8.7.2 The name(s) of the individual(s) who performed the sampling or measurements;
- 8.7.3 The date(s) analyses were performed;
- 8.7.4 The time(s) analyses were initiated;

- 8.7.5 The name(s) of individual(s) who performed the analyses;
- 8.7.6 References and, when available, written procedures for the analytical techniques or methods used; and,
- 8.7.7 The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

8.8 Retention of Records:

The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this Permit, and records of all data used to complete the application for this Permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the EPA at any time. Data collected on site, data used to prepare the DMR, copies of DMRs, and a copy of this NPDES Permit must be maintained on site.

8.9 Twenty-four Hour Notice of Noncompliance Reporting:

- 8.9.1 The Permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the Permittee first became aware of the circumstances. The report shall be made to EPA, Region 8, Superfund & Emergency Management Division at (303) 293-1788 and the Tribe(s) at (970) 563-2449.
- 8.9.2 The following occurrences of noncompliance shall be reported by telephone to the EPA, Region 8 NPDES and Wetlands Enforcement Section at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time), and the Tribe at (970)563-2449 (8:00 a.m. - 4:30 p.m. Mountain Time) by the first workday following the day the Permittee became aware of the circumstances:
 - 8.9.2.1 Any unanticipated bypass which exceeds any effluent limitation in the Permit (See section 9.5, Bypass of Treatment Facilities.);
 - 8.9.2.2 Any upset which exceeds any effluent limitation in the Permit (See section 9.6, Upset Conditions); or,
 - 8.9.2.3 Violation of a maximum daily discharge limitation for any of the pollutants listed in the Permit to be reported within 24 hours.
- 8.9.3 A written submission shall also be provided to the U.S. EPA, Office of Enforcement, Compliance and Environmental Justice, and to the Tribes within five days of the time that the Permittee becomes aware of the circumstances. The written submission shall contain:
 - 8.9.3.1 A description of the noncompliance and its cause;
 - 8.9.3.2 The period of noncompliance, including exact dates and times;
 - 8.9.3.3 The estimated time noncompliance is expected to continue if it has not been corrected; and,
 - 8.9.3.4 Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- 8.9.4 The EPA may waive the written report on a case-by-case basis for an occurrence of

noncompliance listed under section 8.9.3 above, if the incident has been orally reported in accordance with the requirements of section 8.9.3.

8.9.5 Reports shall be submitted to the addresses in section 8.5, Reporting of Monitoring Results.

8.10 Other Noncompliance Reporting:

Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for section 8.5 are submitted. The reports shall contain the information listed in section 8.9.3.

8.11 Inspection and Entry:

The Permittee shall allow the Regional Administrator, or authorized representative (including an authorized contractor or authorized tribal inspector acting as a representative of the Administrator) upon presentation of credentials and other documents as may be required by law, to:

- 8.11.1 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;
- 8.11.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- 8.11.3 Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and,
- 8.11.4 Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

9 Compliance Responsibilities

9.1 Duty to Comply:

The Permittee must comply with all conditions of this Permit. Any failure to comply with the Permit may constitute a violation of the Clean Water Act and may be grounds for enforcement action, including, but not limited to termination, revocation and reissuance, modification, or denial of a permit renewal application. The Permittee shall give the EPA advanced notice of any planned changes at the permitted facility that will change any discharge from the facility, or of any activity that may result in failure to comply with permit conditions.

9.2 Penalties for Violations of Permit Conditions:

The Clean Water Act provides for statutory maximum and minimum civil and criminal monetary penalties for violations of its provisions. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires EPA to make adjustments of statutory civil penalties on an annual basis according to a prescribed formula to reflect inflation, beginning in 2016. EPA has adjusted its civil monetary penalties effective December 23, 2020 (85 Fed. Reg. 83818-21). Please note that the civil penalties described below are reflective of the most recent Civil Monetary Penalty Inflation Rule the year this permit was issued and that civil penalties will have been adjusted annually thereafter. Civil penalties that EPA issues will therefore be reflective of the

minimum amounts adjusted for inflation at the time of the violation. The civil and criminal penalties for violations of the Act are as follows:

- 9.2.1 Any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$56,460 per day for each violation.
- 9.2.2 Any person who negligently violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment for not more than 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 for not more than two years, or both.
- 9.2.3 Any person who knowingly violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 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 for not more than six years, or both.
- 9.2.4 Any person who knowingly violates Section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment for not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment for not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
- 9.2.5 Any person may be assessed an administrative penalty by the Administrator for violating Section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of this Act. Where an administrative enforcement action is brought for a Class I civil penalty, the assessed penalty may not exceed \$22,584 per violation, with a maximum amount not to exceed \$56,460. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed \$22,584 per day for each day during which the violation continues, with the maximum amount not to exceed \$282,293.

9.3 Need to Halt or Reduce Activity not a Defense:

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit.

9.4 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.

9.5 Removed Substances:

Collected screenings, grit, solids, sludge (including sewage sludge), or other pollutants removed in the course of treatment shall be buried or disposed in a manner consistent with all applicable federal and tribal regulations (e.g., 40 C.F.R. Part 257, 40 C.F.R. Part 258, 40 C.F.R. Part 503). Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the United States.

9.6 Bypass of Treatment Facilities:

9.6.1 Bypass not exceeding limitations: The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Sections 9.5.2 and 9.5.3.

9.6.2 Notice:

9.6.2.1 Anticipated bypass: If the Permittee knows in advance of the need for a bypass, it shall submit prior notice to the addresses in section 8.5, Other Reporting Requirements, if possible, at least 10 days before the date of the bypass to EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch, and the Tribe.

9.6.2.2 Unanticipated bypass: The Permittee shall submit notice of an unanticipated bypass as required under Section 8.9, Twenty-four Hour Noncompliance Reporting, to the EPA Region 8, Enforcement and Compliance Assurance Division, Water Enforcement Branch, and the Tribe.

9.6.3 Prohibition of bypass.

9.6.3.1 Bypass is prohibited and the EPA may take enforcement action against a permittee for a bypass, unless:

9.6.3.1.1 The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

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

9.6.3.1.3 The Permittee submitted notices as required under Section 9.5.2

9.6.3.2 The EPA may approve an anticipated bypass, after considering its adverse effects, if the EPA determines that it will meet the three conditions listed above in Section 9.5.3.1

9.7 Upset Conditions:

9.7.1 Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Section 9.6.2 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).

9.7.2 Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

9.7.2.1 An upset occurred and that the Permittee can identify the cause(s) of the upset;

9.7.2.2 The permitted facility was at the time being properly operated;

9.7.2.3 The Permittee submitted notice of the upset as required under section 8.9, Twenty-four Hour Notice of Noncompliance Reporting; and,

9.7.2.4 The Permittee complied with any remedial measures required under section 9.3, Duty to Mitigate.

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

9.8 Toxic Pollutants:

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

10 General Requirements

10.1 Planned Changes:

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

- 10.1.1 The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the Permit; or,
- 10.1.2 There are any planned substantial changes to the existing sewage sludge facilities, the manner of its operation, or to current sewage sludge management practices of storage and disposal. The Permittee shall give the EPA notice of any planned changes at least 30 days prior to their implementation.
- 10.1.3 The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.

10.2 Anticipated Noncompliance:

The Permittee shall give advance notice to the EPA of any planned changes in the permitted facility or activity which may result in noncompliance with Permit requirements.

10.3 Permit Actions:

This Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

10.4 Duty to Reapply:

If the Permittee wishes to continue an activity regulated by this Permit after the expiration date of this Permit, the Permittee must apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this Permit.

10.5 Duty to Provide Information:

The Permittee shall furnish to the EPA, within a reasonable time, any information which the EPA 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 EPA, upon request, copies of records required to be kept by this Permit.

10.6 Other Information:

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

10.7 Signatory Requirements:

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

- 10.7.1 All permit applications shall be signed by either a principal executive officer or ranking elected official.
- 10.7.2 All reports required by the Permit and other information requested by the EPA shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- 10.7.2.1 The authorization is made in writing by a person described above and submitted to the EPA; and,
- 10.7.2.2 The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- 10.7.3 Changes to authorization: If an authorization under Section 10.7.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Section 10.7.2 must be submitted to the EPA prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 10.7.4 Certification: Any person signing a document under this section shall make the following certification:

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

10.8 Penalties for Falsification of Reports:

The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.

10.9 Availability of Reports:

Except for data determined to be confidential under 40 C.F.R. Part 2, Subpart B, all reports prepared in accordance with the terms of this Permit shall be available for public inspection at the offices of the EPA. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

10.10 Oil and Hazardous Substance Liability:

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

10.11 Property Rights:

The issuance of this Permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, Tribal or local laws or regulations.

10.12 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.

10.13 Transfers:

This Permit may be automatically transferred to a new permittee if:

10.13.1 The current Permittee notifies the EPA at least 30 days in advance of the proposed transfer date;

10.13.2 The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,

10.13.3 The EPA does not notify the existing Permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the Permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Section 10.13.2.

10.14 Permittees in Indian Country:

The EPA is issuing this Permit pursuant to the Agency's authority to implement the Clean Water Act NPDES program in Indian country, as defined at 18 U.S.C. § 1151.

10.15 Reopener Provision:

This Permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:

10.15.1 Water Quality Standards: The water quality standards of the receiving water(s) to which the Permittee discharges are modified in such a manner as to require different effluent limits than contained in this Permit.

10.15.2 Wasteload Allocation: A wasteload allocation is developed and approved by the Tribe and/or the EPA for incorporation in this Permit.

10.15.3 Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this Permit.