

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”),

**The City of Eagle Butte**

is authorized to discharge from its wastewater treatment facility located approximately 0.5 miles west of the City of Eagle Butte city center; in the Northwest  $\frac{1}{4}$  of Section 18, Township 12 North, Range 24 East, latitude 45.007500° N, longitude 101.258333° W, within the Cheyenne River Sioux Indian Reservation in Dewey County, South Dakota.

to, **Green Grass Creek**

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.

The Permit shall become effective **to be determined upon issuance**

The Permit and the authorization to discharge shall expire at midnight, **to be determined upon issuance**

Signed this \_\_\_\_\_ day of \_\_\_\_\_.

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

Judy Bloom, Manager  
Clean Water Branch

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# 1 EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

## 1.1 Definitions:

The *7-day (and weekly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the Permit. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday (40 CFR Part 122.2).

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.

*Act ("the Act") or 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 the Permit the Clean Water Act may be referred to as either "the Act" or CWA (40 CFR Part 122.2).

*Approval Authority* means the Director in a NPDES state with an approved state pretreatment program and the appropriate Regional Administrator in a non-NPDES state or NPDES state without an approved state pretreatment program.

*Bypass* means the intentional diversion of waste streams from any portion of a treatment facility (40 CFR Part 122.41(m)).

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

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

- d. Continuous collection of sample with sample collection rate proportional to flow rate.

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

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

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

*EPA* means the United States Environmental Protection Agency.

*E. coli* means *Escherichia coli*.

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

*Industrial User* is a source of Indirect Discharge and, as defined in Section 3.11.5.7 of the Permit, means a source that introduces pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act. An Industrial User is considered a Significant Industrial User if it:

- a) Is subject to Categorical Pretreatment Standards under Section 307 of the Act and 40 CFR Chapter I, Subchapter N;
- b) Has a process wastewater flow of 25,000 gallons or more per day;
- c) Contributes five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- d) Is designated by the Approval Authority as having a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirements.

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

*New Source* means any building, structure, facility, or installation from which there is or may be a "discharge of pollutants," the construction of which commenced:

- (a) After promulgation of standards of performance under Section 306 of CWA which are applicable to such source, or

(b) After proposal of standards of performance in accordance with Section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal.

*Pass Through* means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES Permit (including an increase in the magnitude or duration of a violation).

*Permit* means the NPDES permit in which "Permit" and corresponding statement of basis or fact sheet is written.

*Permittee* means the "person" as defined by Section 502(5) of the Act authorized to discharge under the Permit.

*Publicly Owned Treatment Works (POTW)* means a treatment works as defined by Section 212 of the Act, which is owned by a State or municipality (as defined by Section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant.

*Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

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

*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 C.F.R. Part 136 or required under 40 C.F.R. chapter I, subchapter N or O for the measured pollutant or pollutant parameter.

*Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based Permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

*Whole Effluent Toxicity (WET)* is the total toxic effect of an effluent measured directly with a toxicity test.

## 1.2 Description of Monitoring Point(s):

The authorization to discharge provided under the National Pollutant Discharge Elimination System (NPDES) renewal Permit # SD-0020192 is limited to Outfall 001, specifically designated below as the discharge location. Discharges at any location not authorized under an NPDES Permit is a violation of the CWA and could subject the person(s) responsible for such discharge to penalties under Section 309 of the CWA.

Table 1 – Description of Discharge Points

Outfall Serial Number	Description of Discharge Point
001	Outfall 001 of the Eagle Butte wastewater treatment facility (Facility). Latitude: 45.007500° N, Longitude: 101.258333° W. Discharges to an unnamed creek which flows into Green Grass Creek.
R001	Receiving water sampling location at Green Grass Creek. Samples collected and analyzed to meet self-monitoring requirements for R001, as outlined in Part 1.3.3. of the Permit, shall be collected in a consistent location in Green Grass Creek, <b>directly upstream</b> of the confluence where the Facility's effluent discharge enters Green Grass Creek.
I001	Influent flume into Cell 1 of the wastewater treatment Facility systems, prior to any treatment.

## 1.3 Specific Limitations and Self-Monitoring Requirements:

### 1.3.1 Effluent Limitations - Outfall 001

Outfall 001: Effective immediately and lasting through the life of the Permit, the quality of effluent discharged by the Facility shall, at a minimum, meet the limitations as set forth in Table 2.

Table 2 –Effluent Limitations for Outfall 001.

Effluent Characteristic	30-Day Average <u>a/</u>	7-Day Average <u>a/</u>	Daily Maximum <u>a/</u>
Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L <u>b/</u>	30	45	N/A
BOD <sub>5</sub> , percent removal, <u>c/</u>	≥ 65%	N/A	N/A
Total Suspended Solids (TSS), mg/L, <u>b/</u>	51	77	N/A
<i>E. coli</i> , Number/100 mL, <u>d/</u>	126	N/A	410
Oil and Grease (visual, mg/L)- upon visual inspection, there shall be no visible sheen or floating oil detected. If either is detected in the discharge, a grab sample shall be taken immediately and analyzed.			
The concentration of oil and grease shall not exceed 10 mg/L in any sample. <u>e/</u>			
The pH of the discharge shall not be less than 6.5 or greater than 9.0 at any time.			

a/ See Definitions, Section 1.1. of the Permit, for definition of terms.

b/ The limits for BOD<sub>5</sub> are based on the National Secondary Treatment Standards (40 C.F.R. Part 133). See response to Public Notice Response to Comment section, Comment #1 for additional details related to TSS requirements.

c/ The percent removal requirement for BOD<sub>5</sub> is based on 40 C.F.R. § 133.105(a)(3) and (b)(3) and is being included in the Permit to ensure that the Permit meets the minimum equivalent to secondary treatment requirements, taking into consideration the allowances in 40 C.F.R. §133.101(g) for facilities utilizing waste stabilization ponds (e.g. lagoons) as their principal process, and to better support future decision making regarding the application of the regulations in 40 C.F.R. § 133.103(c) and 133.105(b).

d/ Per EPA’s 2012 recommended *E. coli* criteria for primary contact recreation (“Recreational Water Quality Criteria”, Office of Water 820-F-12-058), the 30-day Average is to be calculated using the 30-Day geometric mean. The 30-day geometric mean calculation will be based on the geometric mean from the total number of samples collected during the 30-day period. The Permittee may collect more samples than the monthly samples specified in the self-monitoring requirements. The daily maximum limitation will be 410 Number/100 mL.

e/ If a visible sheen or floating oil is detected in the discharge, a grab sample shall be taken immediately, analyzed and recorded in accordance with the requirements of 40 C.F.R. Part 136. The concentration of oil and grease shall not exceed 10 mg/L in any sample.

### 1.3.2 Self-Monitoring Requirements – Outfall 001

**Effective immediately and lasting through the effective term of the Permit.** Sampling and test procedures for pollutants listed in this section shall be in accordance with guidelines promulgated by the Administrator in 40 C.F.R. Part 136, as required in 40 C.F.R. § 122.41(j). 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 or overflow occurs during the entire monitoring period, it shall be reported on the Discharge Monitoring Report (DMR) for Outfall 001 that no discharge occurred.

Effluent monitoring samples shall be taken at Outfall 001, after all treatment processes but prior to discharge to receiving water (i.e., the unnamed creek that ultimately flows to Green Grass Creek).



Table 3- Outfall 001 Monitoring Requirements

Effluent Characteristic	Frequency	Sample Type <u>a/</u>
Total Flow, MGD	<u>b/</u>	Instantaneous, <u>c/</u>
Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L	<u>b/</u>	Grab
BOD <sub>5</sub> , percent removal	<u>g/</u>	Calculated <u>g/</u>
Total Suspended Solids (TSS), mg/L	<u>b/</u>	Grab
pH, standard units	<u>b/</u>	Grab, <u>d/</u>
Temperature, °C	<u>b/</u>	Grab, <u>d/</u>
Oil and grease, visual	<u>b/</u>	Visual, <u>e/</u>
Oil and grease, mg/L	<u>b/</u>	Grab, <u>e/</u>
Total Ammonia Nitrogen (as N), mg/L	<u>b/</u>	Grab
Total Kjeldahl Nitrogen (TKN), mg/L	<u>b/</u>	Grab
Nitrate-Nitrite, mg/L	<u>b/</u>	Grab
Total Nitrogen (TN), mg/L	<u>b/</u>	Calculated, <u>f/</u>
Total Phosphorus (TP), mg/L	<u>b/</u>	Grab
<i>E. coli</i> , Number/100mL	<u>b/</u>	Grab

a/ See Definitions, Section 1.1. of the Permit, for definition of terms.

b/ A minimum of three (3) samples shall be taken during any discharge of wastewater. It is required that a sample be taken at the beginning, middle, and end of the discharge if the discharge is less than one week in duration. If a single, continuous discharge is greater than one week in duration, three (3) samples shall be taken during the first week and one (1) during each following week. All of the samples collected during the 7-day or 30-day period are to be used in determining the averages.

c/ Flow measurements of effluent volume shall be made with a flow measuring device (i.e., Parshall flume, weirs, etc.) in such a manner that the Permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate, in MGD, during the reporting period and the maximum flow rate observed (in MGD) shall be reported. **The date and time of the start and termination of each discharge shall be recorded and maintained in the Facility's records.**

d/ Measurement must be analyzed within fifteen (15) minutes of sampling.

e/ If a visible sheen or floating oil is detected in the discharge, a grab sample shall be taken immediately, analyzed and recorded in accordance with the requirements of 40 C.F.R. Part 136.

f/ At the time of the Permit development, there was no EPA approved analytical method for Total Nitrogen listed in 40 C.F.R. Part 136. For the purposes of the Permit, the term "Total Nitrogen (TN)" is defined as the calculated sum of analytical results from "Total Kjeldahl Nitrogen (TKN)" plus "Nitrate-Nitrite".

g/ *Percent removal is defined in 40 C.F.R. § 133.101(j) as a percentage expression of the removal efficiency across a treatment plant for a given pollutant parameter, as determined from the 30-day average values of the raw wastewater influent pollutant concentrations to the Facility and the 30-day average values of the effluent pollutant concentrations for a given time period. Based on this definition, an example BOD percent removal calculation is provided below. On a quarterly DMR reporting basis, the average of all 30-day average effluent BOD values reported over the previous 6 months and the average of all 30-day average influent BOD values reported over the previous 6 months shall be used to calculate the BOD percent removal that will be reported for that quarterly DMR reporting period, if a*

discharge occurred within the quarterly reporting period. This will result in a rolling 6-month window of data used for quarterly calculations.

Months where no sampling occurred should not be included in the calculation. If no discharge occurred within a quarterly reporting period, no percent removal calculation is necessary for that reporting period.

**Example calculation for 1<sup>st</sup> Calendar Quarter DMR Reporting (January-March):**

*Average Effluent 30-day BOD for 6 months =*

$$\frac{(\text{October effluent BOD 30day average} + \text{November effluent BOD 30day average} + \text{December effluent BOD 30day average} + \text{January effluent BOD 30day average} + \text{February effluent BOD 30day average} + \text{March effluent BOD 30day average})}{(\# \text{ of months for which effluent data was reported (e.g. "6" if there is data for all 6 months)})}$$

*Average Influent 30-day BOD for 6 months =*

$$\frac{(\text{October influent BOD 30day average} + \text{November influent BOD 30day average} + \text{December influent BOD 30day average} + \text{January influent BOD 30day average} + \text{February influent BOD 30day average} + \text{March influent BOD 30day average})}{(\# \text{ of months for which influent data was reported (e.g. "6" if there is data for all 6 months)})}$$

**Quarterly DMR percent removal reported value =**

$$\left( \frac{\text{Average Influent 30day BOD for 6 months} - \text{Average Effluent 30day BOD for 6 months}}{\text{Average Influent 30day BOD for 6 months}} \right) \times 100$$

Use of these average influent and effluent 30-day average values over this longer period of time will provide a better characterization of the removal capabilities of the Facility over time, since the Facility will have a detention time of several months between discharges.

**1.3.3 Self-Monitoring Requirements – Receiving Stream (R001)**

**R001 monitoring requirements are effective immediately and last through the effective term of the Permit.** Sampling and test procedures for pollutants listed in this section shall be in accordance with guidelines promulgated by the Administrator in 40 C.F.R. Part 136, as required in 40 C.F.R. § 122.41(j). At a minimum, the following constituents shall be monitored at the frequency and with the type of measurement indicated. Stream monitoring shall be conducted when there is flow at R001 and access is practical and accessible (e.g. access not impeded by snow, ice, flooding, other unsafe conditions, etc.). Any unsafe conditions shall be recorded. **All receiving stream monthly monitored data collected, including detailed location (latitude, longitude), dates and times of the sample collections, shall be recorded and maintained in the Facility's sampling records. Sampling shall be conducted regardless of the discharge status of the Facility.**

Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136 unless another method is required under 40 C.F.R. subchapters N or O.

Table 4- R001 Monitoring Requirements

Receiving Characteristic	Frequency	Sample Type a/
pH, standard units	Monthly	Grab, b/
Temperature, °C	Monthly	Grab, b/
Total Ammonia Nitrogen (as N), mg/L	Monthly	Grab

a/ See Definitions, Section 1.1. of the Permit, for definition of terms.

b/ Temperature and pH samples shall be collected at the same time as sampling for the total ammonia. Temperature and pH measurements must be analyzed within fifteen (15) minutes of sampling.

#### 1.3.4 Self-Monitoring Requirements – Influent Sampling (I001)

Table 5- Baseline Influent Monitoring Requirements

Influent Characteristic	Frequency	Sample Type a/
Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L	Quarterly, b/	Grab

a/ See Definitions, Section 1.1. of the Permit, for definition of terms.

b/ Samples will be taken once each calendar quarter and will be used in the calculation for the 30-day average for the month in which they are performed. Additional samples may be taken at the Permittee's discretion if a large amount of variability is anticipated in the influent within a quarter. Any additional sample results must be included in the 30-day average influent DMR reporting for the month in which the sampling is performed. See footnote g/ of Table 3 for additional information/example calculations. If only one sample is taken within a month, that result will be the 30-average for the month.

#### 1.4 Special Conditions:

**Industrial Waste Survey (IWS) Requirements:** An IWS shall be maintained by the Permittee to ensure that the Facility remains aware of the nature of the discharges it is receiving from the service area in alignment with the objectives of the general pretreatment regulations (40 C.F.R. § 403.2). The Permittee shall incorporate the following pretreatment management practices when performing the IWS, referenced from 40 C.F.R. § 403.8(f)(2)(i-ii):

- i. Identify and locate all possible Industrial Users that discharge to the Facility and might be subject to the Pretreatment Standards identified in Sections 3.11.4, 3.11.4, and 3.11.5 of the Permit. Any compilation, index or inventory of Industrial Users made under this paragraph shall be made available to the Regional Administrator or Director upon request.
- ii. Identify the character and volume of pollutants contributed to the Facility by the Industrial Users identified under paragraph 1.4 (i) of this section. This information shall be made available to the Regional Administrator or Director upon request.

Further requirements for controlling discharges from Industrial Users into the Facility can be found in Section 3.11 (Industrial Waste Management) of the Permit.

## 2 MONITORING, RECORDING AND REPORTING REQUIREMENTS

### 2.1 Representative Sampling:

Samples taken in compliance with the monitoring requirements established under Section 1.3.2 of the Permit shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use-disposal practice.

### 2.2 Monitoring Procedures:

Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136, unless other test procedures have been specified in the 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 the Permit.

### 2.3 Penalties for Tampering:

The CWA provides that any person who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the 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.

### 2.4 Reporting of Monitoring Results:

With the effective date of the Permit, the Permittee must electronically report DMRs quarterly using NetDMR. Electronic submissions by Permittee must be submitted on a quarterly basis 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 4.7 of the Permit (“Signatory Requirements”). If no discharge or overflow occurs during the entire monitoring period, it shall be reported on the DMR Form for Outfall 001 that no discharge occurred. If there is no flow at R001 or R001 access was impeded by snow, ice, flooding, other unsafe conditions, etc.; the information shall be reported on the DMR for R001 using the most applicable NetDMR no data indicator code (i.e., NODI code) that is available, to identify the circumstances of the situation. NetDMR is accessed from the internet at <https://netdmr.zendesk.com/home>.

Table 6 – DMR Due Dates

<b>Compliance Monitoring Period</b>	<b>Due Date</b>
January-March	April 28th
April- June	July 28th
July-September	October 28th
October- December	January 28th

In addition, the Permittee must submit a copy of the DMR to the Cheyenne River Sioux Tribe. Currently, the Permittee may submit a copy to the Cheyenne River Sioux Tribe by one of three ways: 1. a paper copy may be mailed. 2. The email address for Cheyenne River Sioux Tribe may be added to the electronic submittal through NetDMR, or 3. The Permittee may provide Cheyenne River Sioux Tribe viewing rights through NetDMR.

2.4.1 Legible copies of all other reports required herein: Shall be signed and certified in accordance with the Signatory Requirements (see Section 4.7), and submitted to the EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch and the Cheyenne River Sioux Tribe 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: Cheyenne River Sioux Tribe  
Department of Environment and Natural Resources  
Attention: 106 Water Quality Program  
P.O. Box 590  
Eagle Butte, South Dakota 57625

Prior to December 21, 2020, all other reports required herein (e.g., Permit Sections 2.8, 2.9, and 3.8) as well as sewer overflow event reports, shall be signed and certified in accordance with the Signatory Requirements (see Permit Section 4.7), and submitted to the EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch and the Cheyenne River Sioux Tribe at the addresses given above.

Effective no later than December 21, 2020, these reports shall be submitted electronically using the NPDES Electronic Reporting Tool (NeT). If the NeT tool is not available on December 21, 2020, the reports can continue to be submitted to the addresses above until the tool is available, unless otherwise indicated in 40 C.F.R. Part 127. NeT is a tool suite developed by the EPA to facilitate electronic submittal of data by the regulated community directly to the EPA and its partners. It uses commercial "off-the-shelf" software and can support diverse form and data submission formats.

## 2.5 Additional Monitoring by the Permittee:

If the Permittee monitors any pollutant more frequently than required by the Permit, using test procedures approved under 40 C.F.R. Part 136, 40 C.F.R. 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. Such increased frequency shall also be indicated.

## 2.6 Records Contents:

Records of monitoring information shall include:

- 2.6.1 The date, exact place, and time of sampling or measurements;
- 2.6.2 The name(s) of the individual(s) who performed the sampling or measurements;
- 2.6.3 The date(s) analyses were performed;
- 2.6.4 The time(s) analyses were initiated;
- 2.6.5 The name(s) of individual(s) who performed the analyses;
- 2.6.6 References and, when available, written procedures for the analytical techniques or methods used; and,
- 2.6.7 The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

## 2.7 Retention of Records:

The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the Permit, and records of all data used to complete the application for the Permit, for a period of at least three years from the date of the sample, measurement, report or application. Records of monitoring required by the Permit related to sludge use and disposal activities must be kept at least five years (or longer as required by 40 C.F.R. Part 503). This period may be extended by request of the Director at any time. Data collected on site, data used to prepare the DMR, copies of DMRs, and a copy of this NPDES Permit must be maintained on site.

## 2.8 Twenty-four Hour Notice of Noncompliance Reporting:

- 2.8.1 The Permittee shall **report any noncompliance which may endanger health or the environment as soon as possible**, but no later than twenty-four (24) hours from the time the Permittee first became aware of the circumstances. The report shall be made to the EPA, Region 8, EPA Region 8 24-hr. Emergency Response line at (303) 293-1788 and the Cheyenne River Sioux Tribe Department of Environment and Natural Resources at (605) 964-6558.
- 2.8.2 The following occurrences of noncompliance shall be reported by telephone to the EPA, Region 8 Enforcement and Compliance Assurance Division at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time), and the Cheyenne River Sioux Tribe at (605) 964-6558 - (8:00 a.m. - 4:30 p.m. Central Time) by the first workday following the day the Permittee became aware of the circumstances:
  - 2.8.2.1 Any unanticipated bypass which exceeds any effluent limitation in the Permit (See Section 3.8, Bypass of Treatment Facilities.);
  - 2.8.2.2 Any upset which exceeds any effluent limitation in the Permit (See Section 3.9, Upset Conditions); or,
  - 2.8.2.3 Violation of a maximum daily discharge limitation for any of the pollutants listed in the Permit to be reported within 24 hours.

- 2.8.3 A written submission shall also be provided to the U.S. EPA, Region 8 Enforcement and Compliance Assurance Division and to the Cheyenne River Sioux Tribe within five days of the time that the Permittee becomes aware of the circumstances. The written submission shall contain:
- 2.8.3.1 A description of the noncompliance and its cause;
  - 2.8.3.2 The period of noncompliance, including exact dates and times;
  - 2.8.3.3 The estimated time noncompliance is expected to continue if it has not been corrected; and,
  - 2.8.3.4 Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
  - 2.8.3.5 Signatory and certification requirements shall be followed, as stated in Section 4.7 of the Permit.
- 2.8.4 The Director may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under Section 2.8.2 above, if the incident has been orally reported in accordance with the requirements of Section 2.8.2 of the Permit.
- 2.8.5 Reports shall be submitted to the addresses in Permit Section 2.4.1

2.9 Other Noncompliance Reporting:

Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Permit Section 2.4 are submitted. The reports shall contain the information listed in Permit Section 2.8.3.

2.10 Inspection and Entry:

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

- 2.10.1 Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the Permit;
- 2.10.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of the Permit;
- 2.10.3 Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the Permit; and,
- 2.10.4 Sample or monitor at reasonable times, for the purpose of assuring Permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

### 3 COMPLIANCE RESPONSIBILITIES

#### 3.1 Duty to Comply:

The Permittee must comply with all conditions of the Permit. Any failure to comply with the Permit may constitute a violation of the CWA 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 Director 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.

#### 3.2 Penalties for Violations of Permit Conditions:

The CWA provides for specified civil and criminal monetary penalties for violations of its provisions. However, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires the EPA to adjust the civil monetary penalties for inflation on a periodic basis. The EPA has adjusted its civil monetary penalties effective January 15, 2018 (83 Fed. Reg. 1190-1194). The civil and criminal penalties for violations of the Act are as follows:

- 3.2.1 Any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any Permit condition or limitation implementing any such sections in a Permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$55,800 per day for each violation.
- 3.2.2 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.
- 3.2.3 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.
- 3.2.4 Any person who knowingly violates Section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any Permit condition or limitation implementing any of such sections in a Permit issued under Section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment for not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by



imprisonment for not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

3.2.5 Any person may be assessed an administrative penalty by the Administrator for violating Section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any Permit condition or limitation implementing any of such sections in a Permit issued under Section 402 of this Act. Where an administrative enforcement action is brought for a Class I civil penalty, the assessed penalty may not exceed \$22,320 per violation, with a maximum amount not to exceed \$55,800. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed \$22,320 per day for each day during which the violation continues, with the maximum amount not to exceed \$278,995.

### 3.3 Need to Halt or Reduce Activity not a Defense:

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

### 3.4 Duty to Mitigate:

The Permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of the Permit which has a reasonable likelihood of adversely affecting human health or the environment.

### 3.5 Inspection Requirements:

3.5.1 On at least a weekly basis, unless otherwise approved by the Permit issuing authority, the Permittee shall inspect its wastewater treatment facility, at a minimum, for the following:

3.5.1.1 Determine if a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection.

(Note: If a discharge has occurred or is likely to occur before the next inspection, perform the appropriate monitoring and reporting requirements in Section 2 of the Permit if not already done.);

3.5.1.2 Check to see if there is any leakage through the dikes;

3.5.1.3 Check to see if there are any animal burrows in the dike;

3.5.1.4 Check to see if there has been any excessive erosion of the dikes;

3.5.1.5 Check to see if there are any rooted plants, including weeds growing in the water;

3.5.1.6 Check to see if vegetation growth on the dikes needs mowing; and,

3.5.1.7 Determine if proper operation and maintenance procedures are being undertaken at the wastewater treatment facility.

3.5.1.8 A weekly visual observation for floating solids and foam is required, recorded

in an inspection log in either paper (e.g. bound notebook) or electronic format in accordance with proper record-keeping procedures.

- 3.5.2 The Permittee shall maintain an inspection log in either paper (e.g. bound notebook) or electronic format in accordance with proper record-keeping procedures, recording all information obtained during inspections. At a minimum, the inspection log shall include the following:
- 3.5.2.1 Date and time of the inspection;
  - 3.5.2.2 Name of the inspector(s);
  - 3.5.2.3 The Facility's discharge status;
  - 3.5.2.4 The flow rate of the discharge, if occurring;
  - 3.5.2.5 Identification of operational problems and/or maintenance problems;
  - 3.5.2.6 Recommendations, as appropriate, to remedy identified problems;
  - 3.5.2.7 A brief description of any actions taken with regard to problems identified; and,
  - 3.5.2.8 Other information, as appropriate.
- 3.5.3 The Permittee shall maintain an inspection log (per Section 3.5.2 of the Permit) in either paper (e.g. bound notebook) or electronic format in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the Cheyenne River Sioux Tribe.
- 3.5.4 Problems identified during the inspection (including, but not limited to, those associated with Section 3.5.1 of the Permit) shall be corrected at the time of inspection, if possible. If they cannot be corrected at the time of the inspection, the inspector must identify a corrective action to remedy the problem(s), as well as a timeline for completion of the remedy. Corrective actions to remedy problem(s) shall be in line with (and addressed through) proper operation and maintenance (Section 3.6 of the Permit.). All problems identified during inspections, as well as associated corrective actions and timelines, shall be documented in the inspection log.

### 3.6 Proper Operation and Maintenance (O & M):

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 the Permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up, auxiliary facilities and/or similar systems, which are installed by a Permittee, when the operation is necessary to achieve and maintain compliance with the conditions of the Permit.

- 3.6.1 The Permittee shall do the following as part of the operation and maintenance program for the wastewater treatment facility:
- 3.6.1.1 Have a current O & M Manual(s) that describes the proper operational procedures and maintenance requirements of the wastewater treatment facility;
  - 3.6.1.2 Have the O & M Manual(s) readily available to the operator of the wastewater treatment facility and require that the operator become familiar with the manual(s) and any updates;
  - 3.6.1.3 Have a schedule(s) for routine operation and maintenance activities at the wastewater treatment facility; and,
  - 3.6.1.4 Require the operator to perform the routine operation and maintenance requirements in accordance with the schedule(s).
- 3.6.2 The Permittee shall maintain a daily log in either paper (e.g. bound notebook) or electronic format containing a summary record of all operation and maintenance activities at the wastewater treatment facility. At a minimum, the log shall include the following information:
- 3.6.2.1 Date and time;
  - 3.6.2.2 Name and title of person(s) making the log entry;
  - 3.6.2.3 Name of the persons(s) performing the activity;
  - 3.6.2.4 A brief description of the activity; and,
  - 3.6.2.5 Other information, as appropriate.
- 3.6.3 The Permittee shall maintain the daily log in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the Cheyenne River Sioux Tribe.

3.7 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, state 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.

### 3.8 Bypass of Treatment Facilities:

3.8.1 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 Permit Sections 3.8.2 and 3.8.3.

#### 3.8.2 Notice:

3.8.2.1 Anticipated bypass: If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass to the EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch, and the Cheyenne River Sioux Tribe.

3.8.2.2 Unanticipated bypass: The Permittee shall submit notice of an unanticipated bypass as required under Permit Section 2.8, Twenty-four Hour Notice of Noncompliance Reporting, to the EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch, and the Cheyenne River Sioux Tribe.

#### 3.8.3 Prohibition of bypass.

3.8.3.1 Bypass is prohibited and the Director may take enforcement action against a Permittee for a bypass, unless:

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

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

3.8.3.1.3 The Permittee submitted notices as required under Permit Section 3.8.2.

3.8.3.2 The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Section 3.8.3.1.

### 3.9 Upset Conditions:

- 3.9.1 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 Permit Section 3.9.2 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based Permit effluent limitations).
- 3.9.2 Conditions necessary for a demonstration of upset. A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
- 3.9.2.1 An upset occurred and that the Permittee can identify the cause(s) of the upset;
  - 3.9.2.2 The permitted facility was at the time being properly operated;
  - 3.9.2.3 The Permittee submitted notice of the upset as required under Permit Section 2.8, Twenty-four Hour Notice of Noncompliance Reporting; and,
  - 3.9.2.4 The Permittee complied with any remedial measures required under Permit Section 3.4, Duty to Mitigate.
- 3.9.3 Burden of proof. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

### 3.10 Toxic Pollutants:

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

### 3.11 Industrial Waste Management:

- 3.11.1 The Facility is a Publicly Owned Treatment Works (POTW) as defined in 40 C.F.R. § 403.3. Therefore, the Permittee has the responsibility to protect the Facility from pollutants which would inhibit, interfere, or otherwise be incompatible with operation of the treatment works including interference with the use or disposal of municipal sludge.
- 3.11.2 Pretreatment Standards (40 C.F.R. § 403.5) developed pursuant to Section 307 of the CWA require that the Permittee shall not allow, under any circumstances, the introduction of the following pollutants to the Facility from any source of non-domestic discharge:
- 3.11.2.1 Any other pollutant which may cause Pass Through or Interference.
  - 3.11.2.2 Pollutants which create a fire or explosion hazard the Facility, including, but not limited to, waste streams with a closed cup flashpoint of less than sixty (60) degrees Centigrade (140 degrees Fahrenheit) using the test methods specified in 40 C.F.R. § 261.21;

- 3.11.2.3 Pollutants which will cause corrosive structural damage to the Facility, but in no case discharges with a pH of lower than 5.0 standard units, unless the treatment facilities are specifically designed to accommodate such discharges;
- 3.11.2.4 Solid or viscous pollutants in amounts which will cause obstruction to the flow in the Facility, or other interference with the operation of the Facility;
- 3.11.2.5 Any pollutant, including oxygen demanding pollutants (e.g., BOD<sub>5</sub>), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with any treatment process at the Facility;
- 3.11.2.6 Heat in amounts which will inhibit biological activity in the Facility resulting in Interference, but in no case heat in such quantities that the temperature at the Facility treatment plant exceeds forty (40) degrees Centigrade (104 degrees Fahrenheit) unless the Approval Authority, upon request of the Facility, approves alternate temperature limits;
- 3.11.2.7 Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through;
- 3.11.2.8 Pollutants which result in the presence of toxic gases, vapors, or fumes within the Facility in a quantity that may cause acute worker health and safety problems;
- 3.11.2.9 Any trucked or hauled pollutants, except at discharge points designated by the Facility; and,
- 3.11.2.10 Any specific pollutant which exceeds a local limitation established by the Permittee in accordance with the requirements of 40 C.F.R. § 403.5(c) and (d).
- 3.11.3 For the Facility covered by the Permit, the EPA presently is the Approval Authority for the Pretreatment Program and the mailing address for all reporting and notifications to the Approval Authority shall be:
- U.S. EPA - Region 8  
EPA Region 8 Enforcement and Compliance Assurance Division  
Water Enforcement Branch (8ENF-W)  
1595 Wynkoop Street  
Denver, CO 80202-1129
- 3.11.4 In addition to the general limitations expressed above, more specific Pretreatment Standards have been and will be promulgated for specific industrial categories under Section 307 of the CWA (40 C.F.R. Part 405 et. seq.).
- 3.11.5 The Permittee must notify the Approval Authority of any new introductions by new or existing industrial users or any substantial change in pollutants from any industrial user within sixty (60) days following the introduction or change. Such notice must identify:
- 3.11.5.1 Any new introduction of pollutants into the Facility from an industrial user which would be subject to Sections 301, 306, or 307 of the Act if it were directly discharging those pollutants; or,

- 3.11.5.2 Any substantial change in the volume or character of pollutants being introduced into the Facility by any industrial user.
- 3.11.5.3 For the purposes of this section, adequate notice shall include information on:
- 3.11.5.4 The identity of the industrial user;
- 3.11.5.5 The nature and concentration of pollutants in the discharge and the average and maximum flow of the discharge to be introduced into the Facility; and,
- 3.11.5.6 Any anticipated impact of the change on the quantity or quality of effluent to be discharged from or biosolids or sludge produced at the Facility.
- 3.11.5.7 For the purposes of this section, an industrial user shall include:
  - 3.11.5.7.1 Any discharger subject to Categorical Pretreatment Standards under Section 307 of the CWA and 40 C.F.R. Chapter I, Subchapter N;
  - 3.11.5.7.2 Any discharger which has a process wastewater flow of 25,000 gallons or more per day;
  - 3.11.5.7.3 Any discharger contributing five percent or more of the average dry weather hydraulic or organic capacity of the Facility treatment plant;
  - 3.11.5.7.4 Any discharger who is designated by the Approval Authority as having a reasonable potential for adversely affecting the Facility's operation or for violating any Pretreatment Standard or requirements.
- 3.11.6 At such time as a specific Pretreatment Standard or requirement becomes applicable to an industrial user of the Permittee, the Approval Authority may, as appropriate:
  - 3.11.6.1 Amend the Permittee's NPDES discharge Permit to specify the additional pollutant(s) and corresponding effluent limitation(s) consistent with the applicable national Pretreatment Standards;
  - 3.11.6.2 Require the Permittee to specify, by ordinance, order, or other enforceable means, the type of pollutant(s) and the maximum amount which may be discharged to the Permittee's Facility for treatment. Such requirement shall be imposed in a manner consistent with the program development requirements of the General Pretreatment Regulations at 40 C.F.R. Part 403; and/or,
  - 3.11.6.3 Require the Permittee to monitor its discharge for any pollutant which may likely be discharged from the Permittee's Facility, should the industrial user fail to properly pretreat its waste.

3.11.7 The Approval Authority retains, at all times, the right to take legal action against any source of nondomestic discharge, whether directly or indirectly controlled by the Permittee, for violations of the Permit, order or similar enforceable mechanism issued by the Permittee, violations of any Pretreatment Standard or requirement, or for failure to discharge at an acceptable level under national standards issued by the EPA under 40 C.F.R., Chapter I, Subchapter N. In cases where an NPDES Permit violation has occurred because of the failure of the Permittee to properly develop and enforce Pretreatment Standards and requirements as necessary to protect the Facility, the Approval Authority shall hold the Permittee and/or industrial user responsible and may take legal action against the Permittee as well as the Industrial user(s) contributing to the Permit violation.

#### **4 GENERAL REQUIREMENTS**

##### **4.1 Planned Changes:**

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

4.1.1 The alteration or addition could significantly change the nature or increase the quantity of pollutant discharge. This includes, per 40 C.F.R. §122.42, (1) Any new introduction of pollutants into the Facility 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 the Facility by a source introducing pollutants into the Facility at the time of issuance of the Permit. (3) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the Facility, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the Facility. This notification applies to pollutants which are not subject to effluent limitations in the Permit; or,

4.1.2 There are any planned substantial changes to the existing sewage sludge facilities, the manner of its operation, or to current sewage sludge management practices of storage and disposal. The Permittee shall give the Director notice of any planned changes at least 30 days prior to their implementation. This includes, per 40 C.F.R. 122.21(l)(1)(iii), if 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 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.

4.1.3 The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.

##### **4.2 Anticipated Noncompliance:**

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



#### 4.3 Permit Actions:

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

#### 4.4 Duty to Reapply:

If the Permittee wishes to continue an activity regulated by the Permit after the expiration date of the 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 the Permit, unless permission for a later date has been granted by the Director.

#### 4.5 Duty to Provide Information:

The Permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the Permit, or to determine compliance with the Permit. The Permittee shall also furnish to the Director, upon request, copies of records required to be kept by the Permit.

#### 4.6 Other Information:

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

#### 4.7 Signatory Requirements:

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

4.7.1 All Permit applications shall be signed by either a principal executive officer or ranking elected official.

4.7.2 All reports required by the Permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

4.7.2.1 The authorization is made in writing by a person described above and submitted to the Director; and,

4.7.2.2 The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

4.7.3 Changes to authorization: If an authorization under Permit Section 4.7.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Permit Section 4.7.2 must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

4.7.4 Certification: Any person signing a document under the Permit Section 4.7 shall make the following certification:

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

4.8 Penalties for Falsification of Reports:

The 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 the Permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.

4.9 Availability of Reports:

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

4.10 Property Rights:

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

4.11 Severability:

The provisions of the Permit are severable, and if any provision of the Permit, or the application of any provision of the Permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of the Permit, shall not be affected thereby.

4.12 Transfers:

The Permit may be automatically transferred to a new Permittee if:

- 4.12.1 The current Permittee notifies the Director at least 30 days in advance of the proposed transfer date;
- 4.12.2 The notice includes a written agreement between the existing and new Permittees containing a specific date for transfer of Permit responsibility, coverage, and liability between them; and,
- 4.12.3 The Director does not notify the existing Permittee and the proposed new Permittee of his or her intent to modify, or revoke and reissue the Permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Permit Section 4.12.2.

4.13 Oil and Hazardous Substance Liability:

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

4.14 Permittees in Indian Country:

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

4.15 Reopener Provision:

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

- 4.15.1 **Water Quality Standards:** The water quality standards of the receiving water(s) to which the Permittee discharges are modified in such a manner as to require different effluent limits than contained in the Permit.
- 4.15.2 **Wasteload Allocation:** A wasteload allocation is developed and approved by the Cheyenne River Sioux Tribe and/or the EPA for incorporation in the Permit.
- 4.15.3 **Water Quality Management Plan:** A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in the Permit.
- 4.15.4 At such time as a specific Pretreatment Standard or requirement becomes applicable to an industrial user of the Permittee, the Approval Authority may, as appropriate, amend the Permittee's NPDES discharge Permit in accordance with Section 3.11.6.1 of the Permit.
- 4.15.5 The Permit may be reopened and modified (following proper administrative procedures) to include WET limitations if WET is detected in the discharge.