

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 United States General Services Administration

is authorized to discharge wastewater from construction dewatering activities at the Denver Federal Center in Lakewood, Colorado, located in Section 9, Township 4S, Range 69W, at latitude 39.715° N and longitude 105.117° W, Jefferson County,

to **McIntyre Gulch**

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

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

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

Signed on the date in the digital signature below.

Authorized Permitting Official

Judy Bloom, Manager
Clean Water Branch

1	Definitions.....	4
2	Description of Discharge Points.....	7
3	Effluent Limitations	8
4	Self-Monitoring Requirements	8
5	Special Conditions	11
5.1	Acute Whole Effluent Toxicity (WET) Monitoring:.....	11
6	Monitoring, Record Keeping, and Reporting Requirements	12
6.1	Representative Sampling:.....	12
6.2	Monitoring Procedures:	12
6.3	Penalties for Tampering:	13
6.4	Reporting of Monitoring Results:.....	13
6.5	Other reporting and notification requirements:	13
6.6	Additional Monitoring by the Permittee:	14
6.7	Records Contents:.....	14
6.8	Retention of Records:	14
6.9	Twenty-Four Hour Notice of Noncompliance Reporting:	15
6.10	Other Noncompliance Reporting:.....	16
6.11	Inspection and Entry:.....	16
7	Compliance Responsibilities.....	16
7.1	Duty to Comply:.....	16
7.2	Penalties for Violations of Permit Conditions:.....	16
7.3	Need to Halt or Reduce Activity not a Defense:	17
7.4	Duty to Mitigate:	17
7.5	Inspection Requirements:	18
7.6	Proper Operation and Maintenance:.....	19
7.7	Removed Substances:.....	19
7.8	Bypass of Treatment Facilities:.....	20
7.9	Upset Conditions:	20
7.10	Toxic Pollutants:.....	21
7.11	Discharge of Un-Permitted Toxic Pollutants:	21
8	General Requirements.....	22
8.1	Planned Changes:	22
8.2	Anticipated Noncompliance:	22
8.3	Permit Actions:.....	22
8.4	Duty to Reapply:.....	22
8.5	Duty to Provide Information:	22
8.6	Other Information:.....	22

8.7	Signatory Requirements:	22
8.8	Penalties for Falsification of Reports:	23
8.9	Availability of Reports:	23
8.10	Property Rights:	24
8.11	Severability:	24
8.12	Transfers:	24
8.13	Oil and Hazardous Substance Liability:	24
8.14	State Laws:	24
8.15	Reopener Provision:	24

1 Definitions

The *7-day (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 (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 (40 CFR Part 122.2).

Act ("the Act") 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 Act may be referred to as the CWA.

Best management practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage (40 CFR Part 122.2).

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.

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*.

Geometric mean is an average or mean based on multiplication instead of addition. To calculate a geometric mean, take the *n*th root of the product of *n* measured values.

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.

Lethal Concentration, 50 Percent (LC50) is the toxicant or effluent concentration that would cause death in 50 percent of the test organisms over a specified period of time.

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.

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.

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.

Stormwater means storm water runoff, snow melt runoff, and surface runoff and drainage.

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

- (a) 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
- (b) 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.

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.

2 Description of Discharge Points

The authorization to discharge provided under this Permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under 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. Discharges will enter the storm sewer system on the Permittee's property and discharge through eight outfalls into McIntyre Gulch.

Table 1 – Description of Discharge Points

Outfall Serial Number	Latitude/Longitude	Receiving Water	Location Description
001	39.7172° N /105.1105° W	McIntyre Gulch	Outfall to McIntyre Gulch
002	39.7170° N /105.1114° W	McIntyre Gulch	Outfall to McIntyre Gulch
003	39.7157° N /105.1142° W	McIntyre Gulch	Outfall to McIntyre Gulch
004	39.7156° N /105.1159° W	McIntyre Gulch	Outfall to McIntyre Gulch
005	39.7155° N /105.1156° W	McIntyre Gulch	Outfall to McIntyre Gulch
006	39.7150° N /105.1181° W	McIntyre Gulch	Outfall to McIntyre Gulch
007	39.7146° N /105.1241° W	McIntyre Gulch	Outfall to McIntyre Gulch
008	39.7146° N /105.1236° W	McIntyre Gulch	Outfall to McIntyre Gulch

3 Effluent Limitations

Outfall 001 through 008: Effective immediately and lasting through the life of this Permit, the quality of effluent discharged by the facility at Outfalls 001 through 008 shall, at a minimum, meet the limitations as set forth below:

Table 2 – Effluent Limitations

Characteristic	30-Day Average Effluent Limitation <u>a/</u>	7-Day Average Effluent Limitation <u>a/</u>	Daily Maximum Effluent Limitation <u>a/</u>
Flow, mgd	0.13 <u>b/</u>	n/a	n/a
Total Suspended Solids, mg/L	30	45	n/a
Benzene, µg/L	n/a	n/a	5.0
BTEX, µg/L	n/a	n/a	100
1,1 – Dichloroethane (1,1-DCA), µg/L	n/a	n/a	700
1,1 – Dichloroethene (DCE), µg/L	n/a	n/a	7.0
1,1,1 – Trichloroethane (1,1,1-TCA), µg/L	n/a	n/a	200
Trichloroethene (TCE), µg/L	n/a	n/a	5.0
Vinyl Chloride, µg/L	n/a	n/a	2.0
Oil and Grease – no sample shall exceed 10 mg/L			
The pH of the discharge shall not be less than 6.5 or greater than 9.0 at any time.			

n/a: not applicable

a/ See section 1 for definition of terms.

b/ This flow limit is applied as a 30-day average limit for the sum of all outfalls under the Permit, and not per outfall.

4 Self-Monitoring Requirements

Outfall 001 through 008: Effective immediately and lasting through the life 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, as required in 40 CFR Part 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 occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report (DMR) that no discharge occurred.

Effluent monitoring samples shall be taken at each outfall with a discharge at the listed frequency. The effluent sampling location shall be after all treatment processes but prior to discharge to the receiving water.

Table 3 – Monitoring Requirements

Effluent Characteristic	Pollutant Type	Frequency	Sample Type <u>a/</u>
Total Flow, million gallons per day (mgd)	-	Daily <u>b/</u>	Instantaneous
Oil and Grease, visual	conventional	Weekly <u>c/</u>	Visual
Oil and Grease, mg/L	conventional	Immediately if a visible sheen or floating oil is detected or observed in the discharge <u>c/</u>	Grab
pH, s.u.	conventional	Weekly <u>d/</u>	Grab
Total Suspended Solids, mg/L	conventional	Weekly <u>e/</u> , <u>f/</u>	Grab
Benzene, µg/L	VOC	Weekly <u>f/</u> , <u>g/</u>	Grab
BTEX, µg/L	VOC	Weekly <u>f/</u> , <u>g/</u>	Grab
1,1-Dichloroethane (1,1-DCA), µg/L	VOC	Weekly <u>f/</u> , <u>g/</u>	Grab
1,1-Dichloroethene (1,1-DCE), µg/L	VOC	Weekly <u>f/</u> , <u>g/</u>	Grab
Tetrachloroethene (PCE), µg/L	VOC	Weekly <u>f/</u> , <u>g/</u>	Grab
1,2,4-Trichlorobenzene, µg/L	VOC	Weekly <u>f/</u> , <u>g/</u>	Grab
1,1,1-Trichloroethane (1,1,1-TCA), µg/L	VOC	Weekly <u>f/</u> , <u>g/</u>	Grab
Trichloroethene (TCE), µg/L	VOC	Weekly <u>f/</u> , <u>g/</u>	Grab
Vinyl Chloride, µg/L	VOC	Weekly <u>f/</u> , <u>g/</u>	Grab
Phenol, µg/L	Phenol	Weekly <u>f/</u> , <u>g/</u>	Grab
2-chlorophenol, µg/L	Phenol	Weekly <u>f/</u> , <u>g/</u>	Grab
4-chloro-3-methylphenol, µg/L	Phenol	Weekly <u>f/</u> , <u>g/</u>	Grab

Effluent Characteristic	Pollutant Type	Frequency	Sample Type <u>a/</u>
2-nitrophenol, µg/L	Phenol	Weekly <u>f/</u> , <u>g/</u>	Grab
4-nitrophenol, µg/L	Phenol	Weekly <u>f/</u> , <u>g/</u>	Grab
Pentachlorophenol, µg/L	Phenol	Weekly <u>f/</u> , <u>g/</u>	Grab
Cadmium (Cd), dissolved, µg/L	Metal	Weekly <u>f/</u> , <u>g/</u>	Grab
Chromium (Cr), total recoverable, µg/L	Metal	Weekly <u>f/</u> , <u>g/</u>	Grab
Copper (Cu), dissolved, µg/L	Metal	Weekly <u>f/</u> , <u>g/</u>	Grab
Iron (Fe), total recoverable, µg/L	Metal	Weekly <u>f/</u> , <u>g/</u>	Grab
Lead (Pb), dissolved, µg/L	Metal	Weekly <u>f/</u> , <u>g/</u>	Grab
Manganese (Mn), dissolved, µg/L	Metal	Weekly <u>f/</u> , <u>g/</u>	Grab
Mercury (Hg), total, µg/L	Metal	Weekly <u>f/</u> , <u>g/</u>	Grab
Nickel (Ni), dissolved, µg/L	Metal	Weekly <u>f/</u> , <u>g/</u>	Grab
Selenium (Se), dissolved, µg/L	Metal	Weekly <u>f/</u> , <u>g/</u>	Grab
Silver (Ag), dissolved, µg/L	Metal	Weekly <u>f/</u> , <u>g/</u>	Grab
Zinc (Zn), dissolved, µg/L	Metal	Weekly <u>f/</u> , <u>g/</u>	Grab
Whole Effluent Toxicity, acute LC ₅₀	-	Once Per Construction Project h/	Grab

a/ See section 1 for definition of terms.

b/ Flow measurements of effluent volume shall be made in such a manner that the Permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate for the month and the daily maximum flow (maximum volume discharged during a 24-hour period) shall be reported (in million gallons per day).

c/ If a visible sheen or floating oil is detected or observed 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.

d/ The maximum and minimum pH shall be reported each quarter.

e/ The highest weekly value and average monthly value shall be reported for each month in the quarterly reporting period.

- f/ After ten weeks of monitoring, if the results continue to show no effluent limit exceedances (for those that have effluent limits), the Permittee may request in writing, in accordance with Section 6.5, a reduction in monitoring frequency to monthly. EPA may approve or deny the request based on the monitoring results and other information available (including surface water quality standards) without further public notice or modifying the Permit. This reduction in monitoring would apply to that construction project only – any new or concurrent construction projects would revert to/remain on the weekly monitoring frequency. Note that flow, pH, and the oil & grease visual observation are not included in this reduction – these will continue to be required at the frequency stated in this table.
- g/ For VOCs, phenols, and metals, the average monthly value and maximum daily value shall be reported for each month in the quarterly reporting period.
- h/ One acute WET test shall be performed at least once for each construction project discharge. It shall be performed on two species; *Ceriodaphnia dubia*, EPA 2000.0, as a 48-hr, static-renewal definitive test with renewals at each 24-hr interval, and *Pimephales promelas*, EPA 2002.0, as a 96-hour static-renewal definitive test with renewals at each 24-hr interval. Both test shall utilize the standard dilution series of 100%, 75%, 50%, 25%, 12.5% and a 0 control, with hard synthetic laboratory water for dilutions with test temperature set at 25° Celsius. See section 5.1 for more information on WET testing.

5 Special Conditions

5.1 Acute Whole Effluent Toxicity (WET) Monitoring:

Beginning with the effective date of this Permit, acute Whole Effluent Toxicity (WET) sampling shall be performed at least once per construction dewatering project by the Permittee and shall be submitted to a WET laboratory for analysis. The Permittee shall take a grab sample of the discharge, chill it to between 0 and 6° C, and send it to the WET laboratory to start analysis within the 36-hour holding time, unless otherwise specified in 40 CFR Part 136.

The acute static-renewal toxicity tests shall be conducted in accordance with the procedures set out in the latest revision of the EPA WET manual^a. The Permittee shall instruct the laboratory to conduct a 48-hour acute static-renewal toxicity test with renewals at each 24-hour interval using *Ceriodaphnia dubia*, Method 2002.0, and a 96-hour acute static-renewal toxicity test with renewals at each 24-hour interval using *Pimephales promelas*, Method 2000.0.

The laboratory shall use a multi-dilution test consisting of five concentrations (100%, 50%, 25%, 12.5%, 6.25% effluent) and a 0% control. The dilution water used for the test shall be “hard” synthetic laboratory grade water, consistent with EPA WET manual laboratory specifications. Tests shall be run at 25° C.

WET test results shall be reported on the DMR submitted for the reporting period when the monitoring was conducted (e.g., WET results for the calendar quarter ending March 31 shall be reported with the DMR due April 28, etc.).

^a Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, EPA-821-R-02-012. Fifth Edition, October 2002. U.S. EPA.

If acute toxicity occurs in a WET test, the Permittee shall do the following:

1. Notify the EPA within 48 hours of when the Permittee learned of the initial test failure (see section 6.9.2);
2. Promptly take all reasonable measures necessary to immediately reduce toxicity; and
3. Conduct an additional WET test within two (2) weeks of the date of when the Permittee learned of the WET test failure.

Should toxicity occur in the second WET test, the Permittee shall immediately begin accelerated monthly testing until further notified by the EPA. Accelerated monthly WET testing is only required for the species that failed the initial and second WET tests.

In addition to the accelerated monitoring, the Permittee shall perform a toxicity identification evaluation/toxicity reduction evaluation (TIE/TRE) to establish the cause of the toxicity, locate the source(s) of the toxicity, and develop control of - or treatment for - the toxicity.

Test results from additional toxicity testing conducted (i.e., two-week additional testing and monthly TIE/TRE testing) shall be reported by the 28th of the month following the WET test through NetDMR, as required by section 6.4 of the Permit, and to the following address:

U.S. EPA, Region 8
Wastewater Unit (8WD-CWW)
1595 Wynkoop Street
Denver, CO 80202-1129

The EPA may waive either or both requirements (2) or (3), above with justification (e.g., the toxicity has been ongoing and the Permittee is in the process of conducting a TIE/TRE). If WET testing confirms reasonable potential to cause or contribute to an exceedance of the narrative standards, the Permit may be reopened to include a WET limitation.

6 Monitoring, Record Keeping, and Reporting Requirements

6.1 Representative Sampling:

Samples shall be taken in compliance with the monitoring requirements established under section 4. Effluent samples shall be taken 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 or influent. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use or disposal practice.

6.2 Monitoring Procedures:

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this Permit. Sludge monitoring procedures shall be those specified in 40 CFR Part 503, or as specified in the Permit. The Permittee must select a test procedure that is Sufficiently Sensitive, as defined in Section 1 of the Permit, for all monitoring conducted in accordance with this Permit.

6.3 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.

6.4 Reporting of Monitoring Results:

With the effective date of this Permit, the Permittee must electronically report a summary of monitoring reports on DMRs quarterly using NetDMR. Electronic submissions by permittees must be submitted quarterly to the EPA Region 8 no later than the 28th of the month following the completed compliance monitoring period. The Permittee must sign and certify all electronic submissions in accordance with the requirements of section 8.7 of this Permit (“Signatory Requirements”). NetDMR is accessed from the internet at <https://netdmr.zendesk.com/home>.

Table 4 – DMR Due Dates for Quarterly Reporting

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 state of Colorado. Currently, the Permittee may submit a copy to the state of Colorado by one of three ways: 1) a paper copy may be mailed to the state of Colorado at the address in section 6.5; 2) the appropriate state of Colorado contact’s email address may be added to the electronic submittal through NetDMR; or 3) the Permittee may provide viewing rights to the state of Colorado through NetDMR.

6.5 Other reporting and notification requirements:

Other reporting and notification requirements shall be signed and certified in accordance with the Signatory Requirements (see section 8.7), and submitted to the EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch and the State of Colorado at the addresses given below (unless telephone notification is specified):

original to:

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

copy to:

Colorado Department of Public Health and Environment
Water Quality Control Division
WGCD-P-82
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Prior to December 21, 2020, or as otherwise specified in 40 CFR Part 127, all other reports required herein (e.g., sections 6.9 and 6.10) as well as sewer overflow event reports, shall be signed and certified in accordance with the Signatory Requirements (see section 8.7), and submitted to the EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch and the State of Colorado at the addresses given above. Effective no later than December 21, 2020, or as otherwise specified in 40 CFR Part 127, 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 may continue to be submitted to the addresses above until the tool is available.

6.6 Additional Monitoring by the Permittee:

If the Permittee monitors any pollutant in accordance with section 6.1 more frequently than required by this Permit, using test procedures approved under 40 CFR Part 136, 40 CFR 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.

6.7 Records Contents:

Records of monitoring information shall include:

- 6.7.1 The date, exact place, and time of sampling or measurements;
- 6.7.2 The name(s) of the individual(s) who performed the sampling or measurements;
- 6.7.3 The date(s) analyses were performed;
- 6.7.4 The time(s) analyses were initiated;
- 6.7.5 The name(s) of individual(s) who performed the analyses;
- 6.7.6 References and, when available, written procedures for the analytical techniques or methods used; and,
- 6.7.7 The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

6.8 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. Records of monitoring required by this Permit related to sludge use and disposal

activities must be kept at least five years (or longer as required by 40 CFR Part 503). 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.

6.9 Twenty-Four Hour Notice of Noncompliance Reporting:

- 6.9.1 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 the EPA, Region 8, Superfund & Emergency Management Division at (303) 293-1788 and the state of Colorado at (303) 756-4455.
- 6.9.2 The following occurrences of noncompliance and WET test failures shall be reported by telephone to the EPA, Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time), and the state of Colorado at (303) 692-3590 (8:00 a.m. - 4:30 p.m. Central Time) by the first workday following the day the Permittee became aware of the circumstances:
 - 6.9.2.1 Any unanticipated bypass which exceeds any effluent limitation in the Permit (See section 7.8, Bypass of Treatment Facilities.);
 - 6.9.2.2 Any upset which exceeds any effluent limitation in the Permit (See section 7.9, Upset Conditions); or,
 - 6.9.2.3 Violation of a maximum daily discharge limitation for any of the pollutants listed in the Permit to be reported within 24 hours.
- 6.9.3 A written submission shall also be provided to the U.S. EPA, Office of Enforcement and Compliance Assurance Division Water Enforcement Branch, and to the state of Colorado within five days of the time that the Permittee becomes aware of the circumstances. The written submission shall contain:
 - 6.9.3.1 A description of the noncompliance and its cause;
 - 6.9.3.2 The period of noncompliance, including exact dates and times;
 - 6.9.3.3 The estimated time noncompliance is expected to continue if it has not been corrected; and,
 - 6.9.3.4 Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- 6.9.4 The EPA may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under section 6.9.2 above if the oral report has been received within 24 hours.
- 6.9.5 Reports shall be submitted to the addresses in section 6.5, Reporting of Monitoring Results.

6.10 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 6.5 are submitted. The reports shall contain the information listed in section 6.9.3.

6.11 Inspection and Entry:

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

- 6.11.1 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;
- 6.11.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- 6.11.3 Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and,
- 6.11.4 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.

7 **Compliance Responsibilities**

7.1 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 could change any discharge from the facility, or of any activity that may result in failure to comply with Permit conditions.

7.2 Penalties for Violations of Permit Conditions:

The Clean Water Act provides for specified civil and criminal monetary penalties for violations of its provisions. However, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires 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:

- 7.2.1 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 \$53,484 per day for each violation.
- 7.2.2 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.

7.2.3 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.

7.2.4 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 Act, 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.

7.2.5 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.

7.3 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.

7.4 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.

7.5 Inspection Requirements:

- 7.5.1 On at least a weekly basis, unless otherwise approved by the Permit issuing authority, the Permittee shall inspect its wastewater treatment operation, at a minimum, for the following:
 - 7.5.1.1 Visual observation of the influent and effluent, process treatment units, sampling and flow monitoring equipment, outfalls, and the receiving stream.
 - 7.5.1.2 Observe and inspect any best management practices (BMPs) that are in place.
 - 7.5.1.3 Identify any uncontrolled leaks, spills or discharges.
 - 7.5.1.4 Conduct a visual inspection for indicators of pollution in the effluent. This includes, but is not limited to, objectionable aesthetic properties including color, odor, clarity, floating solids, settled solids, suspended solids, foam, and oil sheen.
- 7.5.2 The Permittee shall maintain a log in either paper or electronic format recording information obtained during inspection activities. At a minimum, the notebook shall include the following:
 - 7.5.2.1 Date and time of the inspection;
 - 7.5.2.2 Name of the inspector(s);
 - 7.5.2.3 The facility's discharge status;
 - 7.5.2.4 The flow rate of a discharge if occurring;
 - 7.5.2.5 The condition and observations of the influent and effluent, process treatment units, sampling and flow monitoring equipment, outfalls, and the receiving stream;
 - 7.5.2.6 The condition of any BMPs;
 - 7.5.2.7 Whether any uncontrolled leaks, spills or discharges were observed and associated details (i.e., location, potential pollutants, volume, duration);
 - 7.5.2.8 Visual observations of indicators of pollution in the effluent;
 - 7.5.2.9 Identification of operational problems and/or maintenance problems;
 - 7.5.2.10 Recommendations, as appropriate, to remedy identified problems;
 - 7.5.2.11 A brief description of any actions taken with regard to problems identified; and,
 - 7.5.2.12 Other information, as appropriate.
- 7.5.3 The Permittee shall maintain daily log in either paper 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 state of Colorado.
- 7.5.4 Problems identified during the inspection shall be addressed through proper operation and

maintenance. (See Part 7.6 of this Permit.)

7.6 Proper Operation and Maintenance:

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the Permit.

7.6.1 The Permittee shall implement the following as part of the operation and maintenance program for the wastewater treatment facility:

7.6.1.1 Have a current O & M Manual(s) that describes the proper operational procedures and maintenance requirements of the wastewater treatment facility;

7.6.1.2 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;

7.6.1.3 Have a schedule(s) for routine operation and maintenance activities at the wastewater treatment facility; and,

7.6.1.4 Require the operator to perform the routine operation and maintenance requirements in accordance with the schedule(s).

7.6.2 The Permittee shall maintain a daily log in either paper 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:

7.6.2.1 Date and time;

7.6.2.2 Name and title of person(s) making the log entry;

7.6.2.3 Name of the persons(s) performing the activity;

7.6.2.4 A brief description of the activity; and,

7.6.2.5 Other information, as appropriate.

7.6.3 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 EPA or the state of Colorado.

7.7 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 and state regulations (e.g., 40 CFR Part 257, 40 CFR Part 258, 40 CFR 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.

7.8 Bypass of Treatment Facilities:

7.8.1 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 sections 7.8.2 and 7.8.3.

7.8.2 Notice:

7.8.2.1 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 EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch, and the state of Colorado.

7.8.2.2 Unanticipated bypass: The Permittee shall submit notice of an unanticipated bypass as required under section 6.9, Twenty-four Hour Noncompliance Reporting, to the EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch, and the state of Colorado.

7.8.3 Prohibition of bypass.

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

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

7.8.3.1.2 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,

7.8.3.1.3 The Permittee submitted notices as required under section 7.8.2.

7.8.3.2 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 7.8.3.1.

7.9 Upset Conditions:

7.9.1 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 section 6.9.2 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).

7.9.2 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:

- 7.9.2.1 An upset occurred and that the Permittee can identify the cause(s) of the upset;
 - 7.9.2.2 The permitted facility was at the time being properly operated;
 - 7.9.2.3 The Permittee submitted notice of the upset as required under section 6.9, Twenty-four Hour Notice of Noncompliance Reporting; and,
 - 7.9.2.4 The Permittee complied with any remedial measures required under section 7.4, Duty to Mitigate.
- 7.9.3 Burden of proof: In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

7.10 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.

7.11 Discharge of Un-Permitted Toxic Pollutants:

Notification shall be provided to the EPA as soon as the Permittee knows of, or has reason to believe:

- 7.11.1 That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the Permit, if that discharge will exceed the highest of the following "notification levels":
 - 7.11.1.1 One hundred micrograms per liter (100 µg/L);
 - 7.11.1.2 Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - 7.11.1.3 Five (5) times the maximum concentration value reported for that pollutant in the Permit application in accordance with 40 CFR § 122.21(g)(7); or,
 - 7.11.1.4 The level established by the EPA in accordance with 40 CFR § 122.44(f).
- 7.11.2 That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the Permit, if that discharge will exceed the highest of the following "notification levels":
 - 7.11.2.1 Five hundred micrograms per liter (500 µg/L);
 - 7.11.2.2 One milligram per liter (1 mg/L) for antimony;
 - 7.11.2.3 Ten (10) times the maximum concentration value reported for that pollutant in the Permit application in accordance with 40 CFR § 122.21(g)(7); or,
 - 7.11.2.4 The level established by the EPA in accordance with 40 CFR § 122.44(f).

8 General Requirements

8.1 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:

- 8.1.1 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,
- 8.1.2 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 (as required by 40 CFR 122.21).
- 8.1.3 The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a New Source.

8.2 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.

8.3 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.

8.4 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.

8.5 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.

8.6 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.

8.7 Signatory Requirements:

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

- 8.7.1 All permit applications shall be signed by either a principal executive officer or ranking elected official.
- 8.7.2 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:
- 8.7.2.1 The authorization is made in writing by a person described above and submitted to the EPA; and,
- 8.7.2.2 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.)
- 8.7.3 Changes to authorization: If an authorization under section 8.7.2 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 8.7.2 must be submitted to the EPA prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 8.7.4 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."

8.8 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.

8.9 Availability of Reports:

Except for data determined to be confidential under 40 CFR 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.

8.10 Property Rights:

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

8.11 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.

8.12 Transfers:

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

- 8.12.1 The current Permittee notifies the EPA at least 30 days in advance of the proposed transfer date;
- 8.12.2 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,
- 8.12.3 The EPA does not notify the existing Permittee and the proposed new permittee of the EPA's 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 8.12.2.

8.13 Oil and Hazardous Substance Liability:

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

8.14 State Laws:

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

8.15 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:

- 8.15.1 **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.
- 8.15.2 **Wasteload Allocation:** A wasteload allocation is developed and approved by the state of Colorado and/or the EPA for incorporation in this Permit.

- 8.15.3 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.
- 8.15.4 Whole Effluent Toxicity: This Permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity limitations if whole effluent toxicity is detected in the discharge.

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