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March 19, 2010

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BY HAND DELIVERY

U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

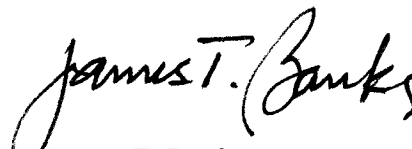
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U.S. EPA.
ENVIR. APPEALS BOARD

**Re: In Re: Los Alamos National Laboratory
NPDES Permit No. NM0030759
NPDES Appeal No. 09-05**

Dear Sir or Madam:

Enclosed are the original and two copies of the Parties' Stipulation and Joint Motion to Stay in the above-referenced matter. In addition, enclosed is one copy to be date-stamped and returned in the self-addressed envelope provided. If you should have any questions, please contact me. Thank you.

Sincerely,


James T. Banks

Enclosures

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

ENVIR. APPEALS BOARD

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In Re:)	
)	NPDES Appeal No. 09-05
Los Alamos National Laboratory,)	
)	STIPULATION AND JOINT MOTION
NPDES Permit No. NM0030759)	TO STAY
_____)	

Amigos Bravos, Concerned Citizens for Nuclear Safety, Embudo Valley Environmental Monitoring Group, Honor Our Pueblo Existence, New Mexico Acequia Association, Partnership for Earth Spirituality, J. Gilbert Sanchez, Kathy Sanchez, and Tewa Women United (collectively “Petitioners”), the Environmental Protection Agency Region 6 (“the Region”), and Los Alamos National Security, LLC and the U.S. Department of Energy (LANS/DOE) hereby jointly and respectfully move for the entry of this Stipulation and Joint Motion to Stay pending completion of the permit modification process described herein. Upon successful completion of the permit modification process described in this stipulation, Petitioners will file a voluntary dismissal of this appeal.

BACKGROUND

The Region issued NPDES Permit No. NM0030759 (“the Permit”) for the Los Alamos National Laboratory (LANL) facility located at Los Alamos, New Mexico on February 13, 2009. Los Alamos National Security, LLC (LANS) and the U.S. Department of Energy (DOE) are Co-Permittees under the Permit, which is an individual permit for stormwater discharges associated with industrial activities from specified Solid Waste Management Units (SWMUs) and Areas of

Concern (AOCs) at the facility. On March 13, 2009, the Western Environmental Law Center on behalf of Petitioners filed with the Board a timely Petition for Review of the Permit and Request for Oral Argument. On April 13, 2009, Co-Permittees LANS/DOE filed a Motion to Intervene and Request for Leave to Respond to the Petition for Review. By Order dated April 21, 2009, the Board granted the Region's motion for an extension of time to file its response to the petition and the request of LANS/DOE to intervene and file a response, giving both parties until June 11, 2009 to file their responses. By subsequent Orders, the Board extended the Region's and DOE/LANS's response deadline until March 19, 2010.

STIPULATION

1. The Parties have engaged in extensive settlement discussions relating to the Permit, have reached an agreement on the terms and conditions of a modified permit (attached as Exhibit A), and now wish to resolve this matter without the expense and burden of continued litigation. The Parties agree that this stipulation is in their interest as well as the public's interest, and that entry of this stipulation, and dismissal upon successful completion of the permit modification process described herein, is the most appropriate means by which to resolve this case.

2. EPA hereby agrees to propose to modify LANL's individual industrial stormwater permit (NPDES Permit No. NM0030759) pursuant to the terms and conditions of the individual permit agreed to by the Parties which is attached to this Stipulation and Joint Motion for Stay. See Exhibit A.

3. EPA agrees to propose the above-described modification to the Permit for public review and comment within 45 days of submission of this stipulation to the EAB, and issue a final modified permit within 140 days of submission of this stipulation to the EAB unless public comment raises significant issues that lead the Region to reconsider the modification. EPA expects to be able to complete the permit modification process by August 6, 2010. EPA shall promptly notify Petitioners and LANS/DOE if unanticipated delays as a result of the public comment period will delay issuance of a final, modified permit, and will attempt to gain the agreement of the Parties to issue a final modified permit beyond the 140 days specified above. The Parties hereby agree not to unreasonably withhold their agreement.

4. Upon successful completion of the permit modification process described herein Petitioners will file a voluntary dismissal of this appeal within 30 days of the issuance of the final modified permit.

5. If EPA fails to complete the permit modification process on the schedule laid out herein or if the final permit modification varies from that laid out in Exhibit A, Petitioners may elect to: (1) move to lift the stay, amend the appeal, and/or ask the EAB to reschedule this case for hearing; or (2) file a new appeal. Any motion to lift the stay, amend the appeal, and/or ask the EAB to reschedule the case for hearing must be made no later than 30 days after EPA issues a modified final permit. If such a motion is not filed within 30 days of EPA's issuance of a final modified permit, the Parties stipulate that the EAB shall dismiss this appeal upon notification from EPA.

6. The undersigned representatives of the Parties certify that they are fully authorized by the Party that they represent to enter into the terms and conditions of this Stipulation and legally bind such party thereto.

7. This stipulation can only be modified upon written agreement of all Parties. If any party realizes that it has, or will, breach this agreement, it shall promptly notify all other parties in writing.


REQUESTED RELIEF

The Parties respectfully request that this matter be stayed to allow the Parties to resolve the issue through the permit modification process. To do otherwise would require the Parties to divert their time and effort to the proceeding before this Board, when there is a substantial likelihood that all issues raised in the Petition for Review will be addressed through permit modification. Therefore, in an effort to conserve resources and to encourage efficiency and promote judicial economy, the Parties jointly request that these proceedings be stayed until September 8, 2010. At that time, the Parties would submit a status report regarding the status of the permit modification and whether it is appropriate to continue the stay, dismiss the Petition, or establish a schedule for EPA's response to the Petition.

Respectfully submitted this 19th day of March, 2010.

s/ E. Renea Ryland*

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*pursuant to e-mail authorization

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In Re:)
) NPDES Appeal No. 09-05
Los Alamos National Laboratory,)
) STIPULATION AND JOINT MOTION
NPDES Permit No. NM0030759)
) TO STAY
_____)

EXHIBIT A

Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

NPDES Permit No.: NM0030759

**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"),

Los Alamos National Laboratory (LANL), managed and owned by co-Permittees

Los Alamos National Security, LLC
Management Contractor for Operations
Los Alamos, New Mexico 87545

and

U.S. Department of Energy
Los Alamos Area Office
Los Alamos, New Mexico 87544

is authorized to discharge storm water associated with industrial activities from specified solid waste management units (SWMUs) and areas of concern (AOCs) (as identified in Appendix A and referred to herein as "Sites") from the facility located at Los Alamos, New Mexico,

to receiving waters named: tributaries or main channels of Mortandad Canyon, Canada del Buey, Los Alamos Canyon, DP Canyon, Sandia Canyon, Ten Site Canyon, Canyon de Valle, Water Canyon, Ancho Canyon, Bayo Canyon, Chaquehui Canyon, Fence Canyon, Pajarito Canyon, Twomile Canyon, Threemile Canyon, Potrillo Canyon, Pueblo Canyon, and Rendija Canyon, in Water Body Segment No. 20.6.4.97, 20.6.4.126 or 20.6.4.128 of the Rio Grande Basin,

in accordance with this cover page and monitoring requirements, and other conditions set forth in Parts I [Requirements for NPDES Permits], II [Other Conditions], and III [Standard Conditions for NPDES Permits] hereof.

This permit shall become effective on

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

Issued on

Prepared by

Miguel I. Flores
Director
Water Quality Protection Division (6WQ)

Isaac Chen
Environmental Engineer
NPDES Permits Branch (6WQ-P)

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PART I - REQUIREMENTS FOR NPDES PERMITS

This Permit authorizes only those storm water discharges associated with solid waste management units (SWMUs) and area of concerns (AOCs) listed in Appendix A of the Permit. The SWMUs and AOCs identified in Appendix A are collectively referred to throughout this Permit as "Sites." This Permit does not authorize storm water discharges associated with current conventional industrial activities at the Permittees' LANL facility. Storm water discharges associated with current conventional industrial activities shall be covered under EPA's NPDES general permit for storm water discharges from industrial activity, also known as the Multi-Sector General Permit (MSGP).

The Permit contains non-numeric technology-based effluent limitations, coupled with a comprehensive, coordinated monitoring program and corrective action where necessary, to minimize pollutants in Permittees' storm water discharges. As used in this Permit, "minimize" means to reduce and/or eliminate discharges of pollutants in storm water to the extent achievable using site-specific control measures (including best management practices) that reflect best industry practice considering their technological availability, economic achievability and practicability.

Permittees are required to implement site-specific control measures (including best management practices) to address the non-numeric technology-based effluent limits contained in the Permit, followed by confirmation monitoring against New Mexico water-quality criteria-equivalent target action levels to determine the effectiveness of the site-specific measures. Permittees must also develop a Site Discharge Pollution Prevention Plan (SDPPP) consistent with Section F.1. of the Permit describing the control measures used to meet the requirements of the Permit.

A. NON-NUMERIC TECHNOLOGY-BASED EFFLUENT LIMITATIONS

For all Sites identified in Appendix A of this Permit, the Permittees must implement baseline control measures to meet the following non-numeric technology-based effluent limits as necessary to minimize pollutants in its storm water discharges.

1. Erosion and Sedimentation Controls. The Permittees must minimize discharges of pollutants caused by onsite erosion and sedimentation. The Permittees must implement structural and non-structural, vegetative, and/or stabilization control measures as necessary to achieve this requirement.

2. Management of Run-on and Runoff. The Permittees must divert, infiltrate, reuse, contain or otherwise reduce storm water run-on/runoff in order, to minimize pollutants in discharges. The Permittees must implement storm water runoff management practices, e.g., permanent structural control measures that are necessary to minimize pollutants in the discharge. Nothing in this permit relieves the Permittees of the obligation to implement additional control measures required by other Federal authorities, or by a State or local authority. Structural control measures, which involve the discharge of dredge or fill material into any

receiving waters (e.g., wetlands) may require a separate permit under section 404 of the CWA before installation.

3. Employee Training. The Permittees must provide training, at least once per year, to all employees who work in areas where industrial materials or activities are exposed to storm water, or who are responsible for implementing activities identified in the SDPPP (e.g., inspectors, maintenance personnel), including all members of the Site Discharge Pollution Prevention Team (referred to Pollution Prevention Team in this Permit). Training must cover both the specific components and scope of the SDPPP and the control measures required under this Part.

4. Unauthorized Discharges. The Permittees must eliminate non-stormwater discharges (e.g. process wastewater, spills or leaks of toxic or hazardous materials, contaminated groundwater, or any contaminated non-storm water) not authorized by an NPDES permit.

5. Other Controls. The Permittees must do the following where applicable:

- (a) Implement controls to ensure that no waste, garbage, or floatable debris are discharged to receiving waters, except as authorized by a permit issued under section 404 of the CWA;
- (b) Minimize the generation of dust, along with off-site vehicle tracking of raw, final or waste materials, or sediments;
- (c) Minimize the introduction of raw, final, or waste materials to exposed areas; and
- (d) Place flow velocity dissipation devices at discharge locations and along the length of any discharge channel if the flows would otherwise create erosive conditions.

B. CONTROL MEASURES

1. Installation of Baseline Control Measures

Permittees must select, design, install and implement baseline control measures (including best management practices) to minimize storm water pollutant discharges as necessary to meet the non-numeric effluent limits established in Part I.A. of the Permit. The selection, design, installation, and implementation of these measures must be in accordance with good engineering practices and manufacturer's specifications. Failure to install and implement control measures to meet the non-numeric effluent limits within six (6) months of the effective date of the Permit is a violation of this Permit. At some Sites, control measures to address the non-numeric effluent limits under this Permit have already been installed and implemented before the effective date of this Permit. Permittees shall certify completion of baseline control measures to address the non-numeric effluent limits to EPA within 30 days of completion of such measures, or if such

measures have already been installed, then within 30 days after the effective date of the Permit. Such certification shall be signed in accordance with 40 CFR 122.22(b) and shall include a description and photographs of all completed baseline control measures. Such certification shall be forwarded to the Chief of the NPDES Compliance Section (R6-ENWC), with copies to the Chief of the NPDES Permits and Technical Assistance Section (6WQ-PP) and NMED's Surface Water Quality Bureau (SWQB).

The specific baseline control measures installed or to be installed at each Site within 6 months of the effective date of the Permit to meet the non-numeric effluent limits are described in Appendix E to the Permit.

2. Maintenance of Control Measures

The Permittees must maintain all control measures in effective operating condition. Failure to do so is a violation of this Permit. The Permittees must keep documentation onsite that describes procedures and a regular schedule for preventative maintenance of all control measures and discussions of back-up practices in place should a runoff event occur while a control measure is off-line. Nonstructural control measures must also be diligently maintained (e.g., employee training). Nothing in this Permit shall be construed to prevent the Permittees from taking action(s) to modify control measures as appropriate to address deficiencies.

If during inspections, or any other event or observation, control measures that are not operating effectively are identified, the Permittees must repair or replace them before the next anticipated storm event if possible, or as soon as practicable following that storm event. In the interim, the Permittees must have back-up measures in place.

C. APPLICABLE TARGET ACTION LEVELS

The target action levels established below are based on and equivalent to New Mexico State water quality criteria for the subject pollutants. The applicable target action levels are not themselves effluent limitations, but are benchmarks to determine the effectiveness of control measures implemented to meet the non-numeric technology-based effluent limitations. Monitoring results based on validated analytical data showing pollutant concentrations above applicable target action levels at any Site indicate that corrective action is required as provided in Section E. of this Part.

Total, unless indicated	CAS No.	STORET	MQL (µg/l)(*1)	ATAL (µg/l)(*2)	MTAL (µg/l)(*3)
RADIOACTIVITIES					
Ra-226 and Ra-228 (pCi/l)		11503		30	---
Adjusted Gross Alpha (pCi/l)		80029		15	---
METALS					
Aluminum, dissolved	7429-90-5	01106	2.5	---	750
Antimony, dissolved (P)	7440-36-0	01097	60	640	---
Arsenic, dissolved (P)	7440-38-2	01000	0.5	9	340

Total, unless indicated	CAS No.	STORET	MQL (µg/l)(*1)	ATAL (µg/l)(*2)	MTAL (µg/l)(*3)
Boron, dissolved	7440-42-8	01022	100	5000	---
Cadmium, dissolved	7440-43-9	01025	1	---	0.6 (*5)
Chromium, dissolved	18540-29-9	01034	10	---	210 (*5)
Cobalt, dissolved	7440-48-4	01037	50	1000	---
Copper, dissolved	7440-50-8	01042	0.5	---	4.3 (*5)
Lead, dissolved	7439-92-1	01049	0.5	---	17 (*5)
Mercury	7439-97-6	71900	0.005	0.77	1.4
Nickel, dissolved (P)	7440-02-0	01065	0.5	---	170 (*5)
Selenium	7782-49-2	01147	5	5	20
Silver, dissolved	7440-22-4	01077	0.5	---	0.4 (*5)
Thallium, dissolved (P)	7440-28-0	01059	0.5	6.3	---
Vanadium, dissolved	7440-62-2	01087	50	100	---
Zinc, dissolved	7440-66-6	01080	20	---	42 (*5)
CYANIDE					
Cyanide, weak acid dissociable	57-12-5	00720	10	5.2	22
DIOXIN					
2,3,7,8-TCDD (P)	1764-01-6	34675	0.00001	5.1E-08	---
SEMIVOLATILE COMPOUNDS					
Pentachlorophenol	87-86-5	39032	5	---	19
Benzo(a)pyrene (P)	50-32-8	34247	5	0.18	---
Hexachlorobenzene (P)	118-74-1	39700	5	0.0029	---
PESTICIDES					
Aldrin (P)	309-00-2	39330	0.01	0.0005	3
Gamma-BHC	58-89-9	39340	0.05	---	0.95
Chlordane (P)	57-74-9	39350	0.2	0.0081	2.4
4,4'-DDT and derivatives (P)	50-29-3	39300	0.02	0.001	1.1
Dieldrin (P)	60-57-1	39380	0.02	0.00054	0.24
Alpha-Endosulfan	959-98-8	34361	0.01	---	0.22
Beta-Endosulfan	33213-65-9	34356	0.02	---	0.22
Endrin	72-20-8	39390	0.02	---	0.086
Heptachlor	76-44-8	39410	0.01	---	0.52
Heptachlor Epoxide	1024-57-3	39420	0.01	---	0.52
Toxaphene	8001-35-2	39400	0.3	---	0.73
PCBS					
PCBs (P)	1336-36-3	39516	(*4)	0.00064	---
HIGH EXPLOSIVES					
RDX	121-82-4			200	---
2,4,6-Trinitrotoluene (TNT)	118-96-7			20	---

Footnote:

- (*1) MQL is the minimum quantification level. EPA approved analytical methods with the same or more sensitive detectable level (DL) than MQL shall be used. If an individual analytical test result is smaller than the MQL listed above, a value of zero (0) or "ND" may be used for reporting and action purpose.
- (*2) ATAL stands for Average Target Action Level
- (*3) MTAL stands for Maximum Target Action Level
- (*4) Method 1668 Revision A shall be used for PCB analysis. See Appendix C for MQL.
- (*5) Hardness-dependent metals target action levels.

D. CONFIRMATION MONITORING REQUIREMENTS

The Permittees shall monitor storm water discharges from Sites at specified sampling points known as site monitoring areas (SMAs) against applicable target action levels. The Permittees shall perform confirmation monitoring as detailed below following installation in accordance with Permittees' SDPPP of each site-specific control measure, including any enhanced or additional control measure installed as corrective action. Pollutants of concern to be monitored are specified in Appendix B.

1. Initial Sampling

Initial monitoring requirements and frequency of sampling for each pollutant of concern following installation and implementation of baseline control measures vary on a site-by-site basis as specified below:

(a) For Sites at which baseline control measures to address the non-numeric effluent limits in Part I.A. of the Permit have already been installed and implemented prior to the effective date of this permit, the Permittees shall collect two or more confirmation samples. One (1) confirmation sample shall be collected during each of at least two (2) separate measurable storm events occurring at least fifteen (15) days apart and within one (1) year after the effective date of this Permit at associated SMAs.

(b) For Sites at which baseline control measures to address the non-numeric effluent limits in Part I.A. of the Permit are installed within six (6) months of the effective date of the permit, the Permittees shall collect two or more confirmation samples. One (1) confirmation sample shall be collected during each of at least two (2) separate measurable storm events occurring at least fifteen (15) days apart) and within eighteen (18) months after the effective date of this Permit at associated SMAs.

2. Sampling Locations

All samples taken for purposes of confirmation monitoring shall be taken in compliance with the monitoring requirements specified below at SMAs specified in Appendix A to the Permit. Instead of monitoring at each individual Site, the Permittees may, when appropriate based on drainage patterns for the affected Sites, monitor two or more Sites in conjunction at an associated

SMA, so long as the SMA and all associated Sites are identified in Appendix A to the Permit. SMA locations are based on reasonable site accessibility for sampling purposes and the Permittees' best judgment to ensure that samples taken at a particular point will be representative of discharges from Sites in the drainage area. The Permit may be modified, in accordance with the provisions of 40 C.F.R. § 122.62, to relocate a SMA based on a determination that the SMA is no longer representative of the drainage area for a Site or Sites, provided sufficient technical justification for the relocation is included with Permittee's request for permit modification. Any change in SMA location must be documented in an update to the SDPPP. Permittees may move a sampler to make minor adjustments that arise due to changes in natural conditions, unexpected events or as otherwise necessary to ensure that the sample location is representative. Such changes can include minor updates in Site boundaries, changes in storm water drainage patterns, logistical, or security adjustment. Any such movement of a sampler will be documented in the annual SDPPP, and be made available for public review. The Permittees shall provide that any permit modification request to EPA will be emailed to email list pursuant to Section I.7.b.

The Permittees must include the following information in their SDPPP regarding each SMA:

- (a) Location of each Site within the SMA drainage area;
- (b) Coordinates for sampling location;
- (c) If more than one Site is monitored by a SMA, information to demonstrate those Sites are expected to discharge substantially identical effluents; and
- (d) Estimates of the size of the drainage area (in square feet) for each of the Sites and the total drainage area of the associated SMA.

3. Sampling Procedures

Any sampling performed for purposes of confirmation monitoring at a particular SMA must be performed following a storm event after installation of applicable control measures that results in an actual discharge from that Site or Sites and that produces sufficient volume to perform the required analyses (referred to herein as a "measurable storm event"), provided the interval since the preceding sampled storm event is at least fifteen (15) days. For each sampling event, the Permittees must identify the date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff, and the duration between the storm event samples and the end of the previous measurable storm event. The Permittees may take meteorological information from the nearest meteorological tower or automated rain gage. Snow melt samples shall not be used for purposes of confirmation monitoring.

Grab samples shall be taken when discharge occurs. Samples must be collected beginning within the first thirty (30) minutes of (or as soon after as practical, but beginning no later than one (1) hour after) a measurable storm event. Samples shall not be used if the collected volume of sample is insufficient to perform all required analyses. Samples from the same SMA shall be at least fifteen (15) days apart.

4. Confirmation Results below Target Action Levels

(a) If all analytical results for a particular pollutant of concern at a particular SMA are at or below the maximum target action level (MTAL) and the average of all applicable sampling results is at or below the average target action level (ATAL), or the applicable minimum quantification level (MQL), whichever is greater, monitoring of that pollutant at the same SMA is no longer required for the remaining period of the permit. An exception is made for instances in which future installation of control measures at the Site or Sites being monitored involves soil disturbance. As described in Section E.5.a below, if soil disturbance is involved, the Permittees must again sample for all listed pollutants of concern at that SMA. A minimum of two confirmation samples must be collected and analyzed before removing a particular pollutant of concern from monitoring requirements under this Section, except as provided in Sections E.5.(d) and (e) below. The two samples required for initial sampling under Section D.1 are sufficient to meet this requirement provided analytical results for the pollutant of concern at issue are at or below applicable target action levels.

(b) If analytical results for all pollutants of concern at a particular SMA are at or below the MTALs and the average of all applicable sampling results is at or below the ATALs, or the applicable MQLs, whichever is greater, no further sampling is required for the Site or group of Sites within the associated SMA for the remaining period of the permit (except as provided in Section E. 5.). Permittees are required to continue to inspect all Sites in accordance with Section G. of the Permit and to maintain all control measures in effective operating condition as required by Section B.2. A minimum of two confirmation samples must be collected and analyzed before removing a Site or group of Sites from monitoring requirements under this Section, except as provided in Sections E.5.(d) and (e) below. The two samples required for initial sampling under Section D.1 are sufficient to meet this requirement provided analytical results for all pollutants of concern at the SMA at issue are at or below applicable target action levels.

E. CORRECTIVE ACTION

As specifically described below, if confirmation monitoring shows target action levels are not being met at a particular Site, Permittees must take corrective action through installation of measures reasonably expected to: (i) meet applicable target action levels at that Site; (ii) achieve total retention of storm water discharges from the Site; (iii) totally eliminate exposure of pollutants to stormwater at the Site; or through (iv) a demonstration that the Site has achieved RCRA "no further action" status or a Certificate of Completion under NMED's Consent Order.

1. Confirmation Results above Target Action Levels

(a) If, following installation of baseline control measures, any validated sample analytical result for a specific pollutant of concern at a particular SMA is greater than the applicable MTAL (or applicable MQL, whichever is greater) or the average of all applicable sampling results is greater than the applicable ATAL (or applicable MQL, whichever is greater), the Permittees shall conduct visual inspections for all Sites within the SMA drainage area, reevaluate the existing control measures, and initiate corrective action as soon as practicable. Such

corrective action may entail the design and installation of enhanced (additional, expanded or better tailored) control measures reasonably expected to achieve compliance with target action levels identified in the Permit for all Sites within the SMA drainage area. If this type of corrective action is selected, at least two confirmation samples shall be collected (one confirmation sample shall be collected during each of at least two (2) separate measurable storm events occurring at least fifteen (15) days apart) following installation of any enhanced control. If either validated confirmation sample result for any specific pollutant of concern exceeds applicable target action levels, the Permittees shall conduct visual inspections for all Sites within the SMA drainage area, reevaluate the existing control measures, and initiate further measures to achieve completion of corrective action under Sections E.2 or 3 as soon as practicable.

(b) If the Permittees decide to achieve corrective action under this Section through installation of measures to totally eliminate exposure of pollutants to stormwater at a Site, Permittees will be in compliance with this Permit at that Site once they have certified and demonstrated to EPA, through the submission of certified as-built drawings, that such measures have been properly installed to perform their function to totally eliminate exposure of pollutants to stormwater, and no further confirmation sampling is required, unless required by Section E.5(c). Thereafter, Permittees shall collect one sample and make the analytical results available via email notification and on the public website pursuant to Section I.7 of the Permit. If the Permittees decide to achieve corrective action under this Section through installation of total retention measures, Permittees will be in compliance with this Permit at that Site once they have certified and demonstrated to EPA, through the submission of certified as-built drawings, that such measures have been properly installed to perform their function to totally retain discharges of stormwater, and no further confirmation sampling is required, unless required by Section E.5(c). If the Permittees decide to achieve corrective action under this Section through demonstration that the Site has achieved RCRA "no further action" status or a Certificate of Completion under NMED's Consent Order, Permittees will be in compliance with this Permit at that Site once they have certified such results to EPA and provided the supporting documentation from NMED, and no further confirmation sampling is required except as provided by Section E.5(c).

(c) Permittees shall certify completion of installation of control measures under this subsection to EPA within 30 days of completion of all such measures at the Site and, where applicable shall provide sampling results within 30 days of receipt of analytical results from the first measurable storm event after completion of such measures. Such certification shall be signed in accordance with 40 C.F.R. Section 122.22(b) and shall include a description and photographs of all completed measures. Except as provided in Section I.2, Permittees are required to continue to inspect the Site in accordance with Section G of the Permit and to maintain all control measures in effective operating condition as required by Section B.2.

(d) For high priority sites, if no confirmation sample could be collected due to lack of a measurable storm event prior to the second year of the permit (or prior to September 30, 2012), then the compliance deadlines for corrective action under Section E.4 below, shall be extended for a one (1) year period following the first successful confirmation sampling event.

2. Completion of Corrective Action

Permittees must certify to EPA, pursuant to 40 C.F.R. section 122.22(b), completion of

corrective action at all Sites within the deadlines established under Section E.4 below. Except as provided in subsection E.3 below, "Completion of Corrective Action" under this Permit shall mean:

(a) Analytical results from confirmation sampling show pollutant concentrations for all pollutants of concern at the Site to be at or below applicable target action levels; or

(b) Control measures that totally retain and prevent the discharge of storm water have been installed at the Site; or

(c) Control measures that totally eliminate exposure of pollutants to stormwater have been installed at the Site; or

(d) The Site has achieved RCRA "no further action" status or a Certificate of Completion under NMED's Consent Order;

3. Alternative Compliance

(a) Where Permittees believe they have installed measures to minimize pollutants in their storm water discharges as required by Part 1.A of the Permit at a Site or Sites, but are unable to certify Completion of Corrective action under Sections E.2.(a) through E.2.(d e) above (individually or collectively) due, for instance, to force majeure events, background concentrations of pollutants of concern, site conditions that make it impracticable to install further control measures, or pollutants of concern contributed by sources beyond the Permittees control, the Permittees may seek to place a site into Alternative Compliance, whereby Completion of Corrective Action will be accomplished on a case-by-case basis, and as necessary, pursuant to a individually tailored compliance schedule determined by EPA.

(b) To seek to place a Site or Sites into Alternative Compliance, the Permittees must file a written request with EPA and provide written notice to the public and opportunity for public comment. Such a request must include a comprehensive description of the control measures installed at the Site or Sites and a detailed demonstration, including any underlying studies and technical information, of how the Permittees reached the conclusion that they are unable to certify Completion of Corrective action under Sections E.2.(a) through E.2.(d) above (individually or collectively).

Upon submitting such a request to EPA, the Permittees shall make the request and all supporting information available to the public for review and comment for a period of forty-five (45) days, and shall develop and provide to the commenters a written response document addressing all relevant and significant concerns raised during the comment period. Permittees' request under this subsection, along with the complete record of public comment and the Permittees' response to comments shall be submitted to EPA Region 6 for a final determination on the request.

In making a final determination to place a Site or Sites into Alternative Compliance, EPA shall carefully consider all of the information submitted by the Permittees, including all comments received on the request and the Permittees response to those comments. The Permittees shall not

be out of compliance with the applicable deadlines for achieving completion of corrective action under Section E.4 with respect to the Site or Sites covered by a request, provided that the request is submitted to EPA on or at least six months before the applicable deadlines.

(c) If the Permittees' request under this subsection is denied, EPA shall promptly notify the Permittees of the specifics of its decision and of the timeframe under which Completion of Corrective Action under Sections E.2.(a) through E.2.(d) above (individually or collectively) must be accomplished for that Site or Sites. EPA will determine the timeframe on a case-by-case basis taking into consideration the types of actions Permittees will be required to take, the time needed to complete such actions, and the need to complete corrective action as expeditiously as possible.

(d) If the Permittees' request under this subsection is granted, in whole or in part, EPA will issue a new, individually tailored work plan for the Site or Sites that may include, among other requirements, specific control measure enhancements, mitigation measures to address discharges from the Site or Sites, and any other requirements deemed necessary by EPA under the CWA, and will extend the compliance deadline for Completion of Corrective Action as necessary to implement the work plan. EPA may condition its response on the Permittees' acceptance of such conditions (applicable to the Site or Sites covered by the request) as may be reasonable and warranted in view of the demonstration submitted with the request.

4. Deadlines for Corrective Action

(a) High Priority Sites

The following Sites have been identified by the Permittees as High Priority Sites:

LIST OF HIGH PRIORITY SITES					
1	00-018(a)	22	02-009(b)	43	35-003(r)
2	00-019	23	02-009(c)	44	35-004(h)
3	01-001(d)	24	02-011(a)	45	35-009(d)
4	01-001(e)	25	02-011(b)	46	35-014(e2)
5	01-001(f)	26	02-011(c)	47	35-016(i)
6	01-003(a)	27	02-011(d)	48	35-016(k)
7	01-003(e)	28	03-009(i)	49	35-016(l)
8	01-006(h)	29	03-012(b)	50	35-016(m)
9	02-003(a)	30	03-013(a)	51	48-003
10	02-003(b)	31	03-014(b2)	52	50-006(a)
11	02-003(e)	32	03-021	53	50-006(d)
12	02-004(a)	33	03-029	54	50-009
13	02-005	34	03-045(b)	55	53-014
14	02-006(b)	35	03-045(c)	56	54-013(b)
15	02-006(c)	36	03-052(b)	57	54-017
16	02-006(d)	37	03-052(f)	58	54-018

17	02-006(e)	38	03-056(c)	59	54-020
18	02-007	39	20-002(c)	60	60-007(b)
19	02-008(a)	40	21-024(i)	61	72-001
20	02-008(c)	41	35-003(h)	62	73-001(a)
21	02-009(a)	42	35-003(p)	63	73-004(d)

Permittees must certify completion of corrective action under Part I.E.2 of the Permit for all High Priority Sites within three (3) years of the effective date of the Permit, or such other time period as may be specified pursuant to Section E.3 or E.5.d. Such certification shall be forwarded to the Chief of the NPDES Compliance Section (R6-ENWC), with copies to the Chief of the NPDES Permits and Technical Assistance Section (6WQ-PP) and NMED's Surface Water Quality Bureau (SWQB).

(b) Moderate Priority Sites

The remaining Sites identified in Appendix A are Moderate Priority Sites. Permittees must certify completion of corrective action under Part I.E.2 of the Permit for all Moderate Priority Sites within five (5) years of the effective date of the Permit, or such other time period as may be specified pursuant to Section E.3 or E.5.d. Such certification shall be forwarded to the Chief of the NPDES Compliance Section (R6-ENWC), with copies to the Chief of the NPDES Permits and Technical Assistance Section (6WQ-PP) and NMED's Surface Water Quality Bureau (SWQB).

(c) The Permittees may seek EPA approval for an extension to a deadline if the Permittees can demonstrate that "force majeure" has resulted, or will result, in a delay in meeting the obligation to confirm Completion of Corrective Action by the specified deadline:

An event that constitutes "force majeure," includes, but is not limited to: (a) Acts of God, natural disasters such as fire or flood, war, terrorism, insurrection, civil disturbance, or explosion; (b) a federal government shut down, such as the ones that occurred in 1995 and 1996; (c) unanticipated breakage or accident to machinery, equipment or lines of pipe; (d) restraint by court order; (e) inability to obtain the necessary authorizations, approvals, permits or licenses due to an action or inaction caused by another governmental authority (f) unanticipated delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures; and (g) inability to secure the reasonable cooperation of any other property owner in addressing storm water run-on to a Site or Sites from such property.

To obtain an extension from EPA, the Permittees shall describe in detail: (a) the cause or causes of the delay; (b) the expected duration of the delay, including any obligations that would be affected; (c) the actions taken or to be taken by the Permittees to minimize the delay; and (d) the timetable by which those actions are expected to be implemented.

EPA will notify the Permittees whether an extension is reasonably justified and provide a new reasonable deadline that takes into account the actual delay resulting from the event,

anticipated seasonal construction conditions and any other relevant factors. If EPA does not agree to the extension, it will notify the Permittees in writing and provide the basis for its conclusion.

5. Additional Sampling Requirements

(a) If installation of control measures at a particular Site does not involve soil disturbance, the Permittees may choose to monitor only those pollutants for which previous monitoring data, including samples collected under the 2005 Federal Facility Compliance Agreement (FFCA), demonstrates an exceedance of the applicable target action levels as listed in Section C of this Permit. If monitoring of PCBs is required, analysis for PCBs must be re-conducted unless Method 1668A was used in the previous analyses. If soil disturbance is involved, all listed pollutants of concern at that Site listed in Appendix B of the Permit shall be analyzed. Installation and routine maintenance of monitoring devices is not considered to involve soil disturbance.

(b) Sampling is not required for any Site which is designated by the Permittees in writing to EPA as a "No Exposure" Site, provided such "No Exposure" status has been verified and confirmed in writing by EPA and the Site is continuously maintained under such status. EPA may request NMED provide such verification on behalf of EPA. (Note: "No Exposure" in this permit means that all pollutants of concern are protected from being exposed to storm water, including rain, snow, snowmelt and/or runoff).

(c) Notwithstanding the provisions of Sections D.4 and E.1, and except as provided in Section I.2, if a Site for which monitoring has ceased, later exhibits evidence of a discharge of contaminated runoff, or conditions that could lead to a discharge of contaminated runoff, such as control measure failure, erosion problems, re-exposure of "no exposure" Sites, or if monitoring data (from the facility, State or local agency), shows an exceedance of applicable target action levels, the Permittees shall initiate appropriate actions to correct the problems within thirty (30) days of being made aware of such information. After completion of any required corrective actions, at least two confirmation samples shall be taken. One confirmation sample shall be collected during each of at least two (2) separate measurable storm events occurring at least fifteen (15) days apart and within one (1) year of completion of the corrective action to evaluate the effectiveness of the action. If confirmation samples show the problem continues, control measures sufficient to reduce pollutant concentration levels to at or below target action levels or control measures designed to totally eliminate the discharge of pollutants from the Site shall be installed and implemented within one year from receipt of analytical results. Confirmation sampling is not required if such a corrective action is part of routine control measure maintenance prior to any evidence of discharge of contaminated runoff. Any actions taken under this paragraph must be summarized in the Annual SDPPP update and in the Annual Report.

(d) If, during any period in which two (2) confirmation samples are required, only one confirmation sample could be collected from a measurable storm event, compliance with applicable target action levels for that particular Site or Sites will be determined by the single confirmation sample result.

(e) If no confirmation sample could be collected during the applicable period from a measurable storm event, confirmation sampling shall continue until at least one sample is collected, and compliance with applicable target action levels for that particular Site or Sites will be determined based on the single result from the first successful confirmation sampling event. If the Permittees are unable to collect samples from a measurable storm event for a particular Site or Sites, the adjusted deadline for Completion of Corrective Action for that Site or Sites shall be 6 months after receipt of a single result from the first successful confirmation sampling event or the deadline specified under Section E.4 for that Site, whichever is later. In the event it is impracticable to meet the adjusted deadline due to conditions affecting the Permittees' ability to install the necessary measures, the Permittees may request a further extension. EPA may grant a further extension after taking into account the anticipated seasonal construction conditions and any other relevant factors.

(f) **Monitoring Location Change.** If the location of any SMA for any Site or Sites has been changed, confirmation samples must be analyzed for all pollutants of concern for that Site or Sites, as listed in Appendix B of the Permit.

F. SITE DISCHARGE POLLUTION PREVENTION PLAN (SDPPP)

The Permittees must prepare a SDPPP for the facility and submit it to EPA within six (6) months of the effective date of this Permit. The facility's SDPPP must remain compliant with relevant State, Tribal, and local regulations, if applicable.

1. Contents of SDPPP

The facility's SDPPP must describe all control measures selected to meet the non-numeric effluent limits specified in Section I.A. of the Permit. In addition, the facility's SDPPP must contain all of the elements described below. The SDPPP must also address the inspection requirements set forth in Section G below.

(a) Site Discharge Pollution Prevention Team. The Permittees must identify the staff members (by name or title) that comprise the facility's Site Discharge Pollution Prevention Team (Pollution Prevention Team). The Permittees' Pollution Prevention Team is responsible for assisting the facility manager in developing and revising the facility's SDPPP as well as maintaining control measures and taking corrective actions for deficiencies. Specific responsibilities of each staff individual on the Team must be identified and listed in the SDPPP. Each member of the Pollution Prevention Team must have ready access to either an electronic or paper copy of applicable portions of this Permit and the facility's SDPPP.

(b) Site Description. The facility's SDPPP must include historical activities at each Site, precipitation information, general location map, and Site maps.

(c) Receiving Waters and Wetlands. The SDPPP must include the name(s) of all receiving waters that receive discharges from Sites covered by this permit. The SDPPP must also include the size and description of wetlands or other special aquatic sites.

(d) **Summary of Potential Pollutant Sources.** The SDPPP must identify each Site at the facility where industrial materials or activities were previously exposed to storm water and from which allowable non-storm water discharges were released. The SDPPP must also identify the pollutants of concern associated with those activities.

(e) **Description of Control Measures.** The SDPPP must identify the baseline control measures specified in Appendix E that will be, or which have been implemented for each Site to address the pollutant sources identified above, and to address storm water run-on that commingles with discharges associated with industrial activity. The Permittees must update the SDPPP as needed to document additional control measures implemented at any Site as a result of Corrective Action under Section E of the Permit. The SDPPP must include sufficient detail to identify and describe the Site-specific control measures.

(f) **Schedules for Control Measure Installation.** The SDPPP must include schedules for baseline control measure installation and implementation for each Site, and must be updated as necessary to include schedules for additional control measure installation and implementation resulting from Corrective Action under Section E of the Permit.

If the Permittees find that significant amounts of pollutants are running onto a specific Site, the Permittees should identify and address the contaminated run-on in the annual SDPPP update

(g) **Monitoring and Inspection Procedures.** The Permittees must document in the SDPPP schedules and planned procedures for sample collection and site inspection.

For each sample to be collected, the SDPPP must identify:

- (i) Locations where samples are to be collected, including coordinates for sampling locations and any determination that two or more Sites are substantially identical;
- (ii) Person(s) or positions of person(s) responsible for sample collection;
- (iii) Parameters to be sampled and frequency of sampling for each parameter;
- (iv) Procedures for gathering storm event data.

The Permittees must document in the SDPPP all tentative schedules and procedures for erosion and post-storm inspections as described in Sections G. 1 & 2. of the Permit below.

(h) **Signature Requirements.** The SDPPP shall be signed, certified and dated in accordance with 40 CFR 122.22(b) no later than one hundred-eighty (180) days from the effective date of this Permit.

2. Documentation

The initial SDPPP document must include records and documents as described in Section F.1 above to comply with this permit. Additionally, the Permittees are required to maintain inspection, monitoring, and certification documentation with the SDPPP that together keep the records complete and help to explain ongoing SDPPP implementation activities. These records

are maintained alongside the SDPPP document thereby providing a consolidated record of documented storm water requirements and implementation procedures.

Following the preparation of the initial SDPPP, the Permittees must at a minimum keep the following records and documentation alongside the SDPPP:

(a) Dates of training sessions, names of employees trained, and subject matter of training;

(b) Sampling reports including sampling dates, analytical results, outfall locations, name and qualifications of technician;

(c) Inspection reports, including visual inspections required by Section E.1 above, and any other information required to be included in an Inspection Report under Section G.3.below;

(d) An accounting of and explanation of the length of time taken to modify control measures or implement additional control measures following the discovery of a deficiency or the need for modification;

(e) Documentation of maintenance and repairs of control measures, including the date(s) of regular maintenance, date(s) of discovery of areas in need of repair/replacement, and for repairs, the date(s) that control measure(s) returned to full function, and the justification for any extended maintenance/repair schedules.

3. Required Modifications

The Permittees must keep documents and records with the SDPPP as necessary to reflect:

(a) Construction or a change in design, operation, or maintenance at the facility having a significant impact on the discharge, or potential for discharge, of pollutants from the facility;

(b) Findings of deficiencies in control measures during inspection or based on analytical monitoring results;

(c) Any change of monitoring requirement or compliance status;

(d) Any change of SMA location; and

(e) Summary of changes from the last year's SDPPP.

If any of the circumstances described above occur at any Site, the Permittees must address these changes or deficiencies to ensure compliance with this Permit's conditions and applicable

monitoring requirements. All changes must be incorporated into the SDPPP (see Section F.4 below) and a summary of these changes must be included in the Annual Report.

4. SDPPP Updates

The SDPPP shall be updated annually to fully incorporate all changes made during the previous year and to reflect any changes projected for the following year.

5. SDPPP Availability

The Permittees must retain a paper copy of the current SDPPP required by this Permit at the facility, and it must be immediately available to EPA, a State, Tribal or local agency approving storm water management plans, the Pollution Prevention Team members, and representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) at the time of an onsite inspection or upon request. In accordance with Section I.7 of this permit, a copy of the SDPPP will also be made available on a public website.

G. INSPECTIONS

The Permittees must conduct the following inspections for every Site in addition to visual inspections required by Section E.1 above. The facility's Pollution Prevention Team (as identified in the Permittees' SDPPP – see Section F. of the Permit) may conduct a combined inspection for a Site, if appropriate.

1. Erosion Inspection and Reevaluation

The facility's Pollution Prevention Team shall inspect and evaluate each Site annually for changes of conditions affecting erosion. The facility's Pollution Prevention Team must also re-inspect and reevaluate all Sites after notice of a significant event, such as a fire, which could significantly impact the control measures and environmental conditions in the affected area. Such inspection and reevaluation should be conducted prior to the next anticipated storm event or as early as practicable.

2. Post-Storm Inspection

The facility's Pollution Prevention Team must inspect control measures and storm water management devices at any Site affected by a "storm rain event" defined below, within fifteen (15) calendar days after such storm rain event. The occurrence of a storm rain event as defined below shall be determined based on data from the nearest meteorological tower to any particular Site. A "storm rain event" under this paragraph means a 0.25-inch or more intensive rain event within 30 minutes.

If several storms exceeding the above intensity threshold occur over a period not to exceed fifteen (15) days from the first event, a single inspection following these storms is sufficient for compliance with this requirement, provided that the inspection occurs no more than

fifteen (15) days from the date of the first storm. If adverse weather conditions prevent a site inspection within the required time period, the Permittees shall inspect the Site as soon as practicable. Adverse weather events shall be documented and maintained with the SDPPP. Adverse weather conditions include dangerous weather-related events (e.g., flooding, wildfires, or hail) that make site inspection dangerous for worker safety.

3. Inspection Report

All inspection reports shall include, at a minimum, the following items:

- (a) The personnel who conduct the inspections;
- (b) Date(s) on which inspection was performed;
- (c) A written summary of major observations, including observation of deficiency;
- (d) A summary of evidence of potential contaminants, BMP failure, or alteration of management structure or runoff pathway, etc.;
- (e) Actions that should be taken to correct noted deficiencies;
- (f) Photo documentation of findings at the Site if necessary; and
- (g) The signature of the delegated official of the Permittees and certification of findings, including observation of no deficiency.

H. REPORTING

1. Compliance Status Reports

Each SMA ID number shall be provided an outfall number for ease of reporting. That list is provided in Appendix D. Monitoring results for each SMA ID shall be reported on the sample forms provided in Appendix D. The information includes, at a minimum, the assigned outfall number, the SMA ID number, pollutants of concern greater than the applicable target action levels, targeted control measure completion date, and actual control measure completion date if control measure installation and implementation is complete. EPA may require the Permittees to submit additional information. These reports shall be signed, certified, and dated in accordance with 40 CFR 122.22(b).

Reporting period is from January 1st to December 31st. The first reporting period is from the effective date of the permit to December 31, 2010, and the first DMR report is due on March 1, 2011. In addition to electronic and paper reports to EPA 6's Enforcement Division, a copy of these reports shall be sent to the Chief of the NPDES Permits and Technical Assistance Section (6WQ-PP) and NMED's Surface Water Quality Bureau (SWQB).

2. Annual Reports

The Permittees shall submit an annual status report. This report shall include the following:

- (a) For each SMA (or Site), a summary of the Site-specific compliance status during the report period;
- (b) SMA and associated Outfall and Site(s) numbers/identifications;
- (c) Monitoring results available during the reporting period;
- (d) Identification of pollutants which exceed applicable MTAL or ATAL;
- (e) Description of baseline control measures installed, including the completion date or targeted completion date;
- (f) Description of corrective actions required under Section E of this Permit to be taken or having been taken, including completion date or targeted completion date, and Progress update;
- (g) Identification of Sites which meet No Exposure status;
- (h) Identification of Sites which meet No Further Action under RCRA or which have been issued a Certificate of Completion under the NMED Consent Order;
- (i) Highlights of any change of compliance status from the Annual Report;
- (j) Lists of requests, for EPA's approval, including any requests for change of monitoring location or Site deletion and any requests to place a Site or Sites into Section E.3 Alternative compliance; and
- (k) A summary of inspections performed in accordance with Sections G. 1 and 2 above, as well as for any visual inspections performed under Section E.1 above.

Copies of the Annual Reports in electronic format (e.g., compact discs or other acceptable media) shall be submitted to EPA 6EN, EPA 6WQ-PP and NMED's SWQB no later than March 1 of each year. A copy of each Report shall be kept with the facility's SDPPP and a copy of the most current Annual Report shall be maintained on Permittees' public website.

I. OTHER CONDITIONS

1. Construction Activity Permit Associated with Site Remediation

If disturbance of soil is required to install a control measure, the Permittees shall take all necessary steps to minimize migration of sediments and runoff from disturbed sites. Steps taken to minimize discharges of contaminated runoff during remediation activity shall be included in the

SDPPP update. This permit authorizes storm water discharges from any Site listed in Appendix A associated with site remediation activity, and therefore the Permittees are not required to file a Notice of Intent for a "Construction Activity Permit." The Permittees shall conduct site inspections once a week to ensure sediments and runoffs control measures maintained in good order. Corrective actions shall be taken immediately if deficiencies of sediments and runoff control measures are noticed either by inspectors or contractors.

2. Deletion of Site

The Permittees may submit a written request to remove a Site if the Permittees can demonstrate that the Site meets one of the following conditions:

(a) The Site was never used for management of hazardous waste, assuming the Site does not otherwise meet the definitions of industrial activities (40 CFR 122.26(b)(14)(i) through (xi)); or

(b) The Site has met RCRA's No Further Action status or the Site has received a Certificate of Completion under NMED's Consent Order.

EPA may approve such a request as a minor modification to the Permit under 40 C.F.R. § 122.63. If such a request is approved, EPA will notify the Permittees in writing and issue a written public notice that the Permit has been modified to remove the Site from the Permit prior to the expiration of the Permit. Documents to support such requests and decisions must be kept with facility's SDPPP. Once a Site is removed from the Permit, a discharge of contaminated runoff is no longer authorized by this Permit.

3. Watershed Protection Approach

EPA encourages the Permittees to voluntarily install watershed-based control measures, such as sediment barriers, to mitigate sediment or storm water runoff reaching the main channels of the canyons and/or the Rio Grande. The Permittees should include information and monitoring data regarding the installation of any such watershed-based control measures in the Annual Report or the SDPPP.

4. Record Keeping

The Permittees shall retain records of all monitoring information and reports, Site inspections and reports, decision making procedures and supporting documents and records, and annual SDPPP updates with supplemental information for at least three years after the issuance of the next permit renewal.

5. Reopener and Modification

This Permit may be reopened and modified in accordance with 40 C.F.R. § 122.62. Any changes to monitoring and/or control measure requirements made to the Permit in accordance with

such a permit modification shall be addressed in the Annual Report and in the annual SDPPP update.

6. Permit Compliance

Any noncompliance with any of the requirements of this Permit constitutes a violation of the Clean Water Act. Failure to take any required corrective actions constitute an independent violation of this Permit and the Clean Water Act. As such, any actions and time periods specified for remedying noncompliance do not absolve parties of the initial underlying noncompliance. However, where corrective action is triggered by an event that does not itself constitute Permit noncompliance, such as an exceedance of an applicable target action level prior to the deadline for corrective action established in Section I.E.3 of the Permit, there is no permit violation provided Permittees take the required corrective action within the relevant deadlines.

Any corrective action required under this Permit must be completed by the deadlines or extensions established in Section E. of the Permit. If completion of corrective action, as defined under Section I.E.2 of the Permit, has not been demonstrated at any given Site by the deadlines or extensions established in Section E, Permittees are in violation of this Permit at that Site.

7. Public Involvement

(a) Website: Within six (6) months after the effective date of the Permit, the Permittees shall establish a public web site where information on the Permit, including the SDPPP, Annual Reports, Inspection Reports, DMRs, transmittal correspondence between Permittees and EPA, and other relevant data and documents, will be made available. A copy (either paper or electronic) of these documents will also be made available by the Permittees as soon as practicable to any member of the public who makes such a request in writing. Confidential Business Information (CBI) may not be withheld from regulatory agencies, but may be withheld from the public. All portions of the SDPPP not identified as CBI, pursuant to 40 CFR Part 2, must be provided to the public upon request.

(b) E-mail notification: The Permittees will provide the opportunity for members of the public to register for and receive e-mail notifications on compliance with the Permit on the public web site. E-mail notifications will provide notice of completion of installation of baseline control measures, updates on permit compliance, any requests for time extensions, spill information, and notification of any modification to the Permit or SDPPP including changing SMA locations, removing, deleting, or adding sites, and completions of corrective action. Such notifications will have a direct link to the specific document to which it relates. Notice will also be provided for any request to complete correction action under Section I.E.3 of the Permit.

(c) Public Meetings: The Permittees shall publish a public notice and send an email notification to members of the public who have registered as provided in Section 7(b) about public meetings which will be held approximately every 6 months. The Permittees shall update the public on implementation of and compliance with the permit and provide an opportunity for both written and oral public comment. The meetings may be combined with other public meetings, but Permittees shall provide a discrete, separate time for comment and discussion of this Permit.

Permittees shall email a draft Agenda at least one week before the meeting and will consider suggestions from the public for changes or additions to the Agenda.

J. Water Quality-Based Effluent Limits

Permittees must control discharges from all Sites as necessary to ensure that such discharges will not cause or contribute to a violation of applicable water quality standards. EPA believes that compliance with the technology-based effluent limitations and other terms and conditions of this permit will control discharges as necessary to meet applicable water quality standards.