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ENV. APPEALS BOARD

EXHIBIT 1

In Re: Los Alamos National Laboratory
NPDES Permit No. NM0030759



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

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FEB 23 2009

PAGE..... OF.....

FEB 13 2009

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7007 3020 0000 1522 9943)

Mr. Donald L. Winchell Jr., Manager
National Nuclear Security Administration
Los Alamos Site Office
Los Alamos, NM 87544

Richard S. Watkins, Associate Director
Environment, Safety, Health & Quality
Los Alamos National Security, LLC
Los Alamos, NM 87545

Re: NPDES Permit No. NM0030759
Final Permit Decision

Dear Mr. Winchell:

This package constitutes EPA's final permit decision for the above referenced facility. Enclosed are the responses to comments received during the public comment period and the final permit. According to EPA regulations at 40 CFR124.19, within 30 days after a final permit decision has been issued, any person who filed comments on that draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision.

Should you have any questions regarding the final permit, please feel free to contact Isaac Chen of the NPDES Permits Branch at the above address or VOICE:214-665-7364, FAX:214-665-2191, or EMAIL:chen.isaac@epa.gov. Should you have any questions regarding compliance with the conditions of this permit, please contact the Water Enforcement Branch at the above address or VOICE:214-665-6468.

Sincerely yours,

Miguel I. Flores
Director
Water Quality Protection Division

Enclosures

cc (w/enclosures): New Mexico Environment Department



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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Sincerely yours,

A handwritten signature in black ink, appearing to read "Miguel I. Flores".

Miguel I. Flores
Director
Water Quality Protection Division

Enclosures

cc (w/enclosures):

New Mexico Environment Department



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, Bay 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 J. Flores
Director
Water Quality Protection Division (6WQ)

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

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).

This permit incorporates best management practices (BMPs), coupled with a comprehensive, coordinated monitoring program based on New Mexico State water quality criteria-equivalent target action levels, to ensure the attainment of State water quality standards. Permittees must also develop a Site Discharge Pollution Prevention Plan (SDPPP) consistent with Section B.1. of the Permit describing the BMPs used to meet the requirements of the Permit.

A. BEST MANAGEMENT PRACTICES (BMPs)

The Permittees shall install site-specific BMPs for each Site as appropriate to reduce concentrations of pollutants in Permittees' storm water discharges to levels at or below applicable target action levels established in the Permit. EPA has determined that the reduction of pollutants concentrations to levels at or below applicable target action levels is sufficient to ensure compliance with applicable State water quality standards. This Permit establishes a "staged" approach, through which the Permittees are required to install basic BMPs for all Sites during the first year of the permit term, followed by additional, expanded or better-tailored BMPs at any Sites shown to be discharging pollutants in excess of the applicable target action levels established in the permit. The target action levels are based on and equivalent to New Mexico State water quality criteria for the subject pollutants. The target action levels are not themselves effluent limitations, but are established to evaluate the effectiveness of the water quality-based control measures (i.e., the BMPs). Achievement of the target action levels will be determined through confirmation monitoring as set out below. If confirmation monitoring shows target action levels are not being met at a particular Site, installation of additional, expanded or better-tailored BMPs is required.

The permit establishes four stages of BMPs, as follows:

1. "Stage 0" BMPs are basic BMP requirements for all Sites;
2. "Stage I" BMPs are the first enhanced BMPs for Sites where effluent data have demonstrated that more enhanced than "Stage 0" BMPs are needed in order to meet the applicable site-specific target action levels;

3. "Stage II" BMPs are the second enhanced BMPs for Sites where effluent data have demonstrated that more enhanced than "Stage I" BMPs are needed in order to meet the applicable site-specific target action levels;
4. "Stage III" BMP are the final stage BMPs for Sites where effluent data have demonstrated that more enhanced than "Stage II" BMPs are needed in order to meet the applicable site-specific target levels.

All Sites are required to have "Stage 0" BMPs. Some Sites may demonstrate compliance with target action levels following installation of "Stage 0" BMPs, while others may require iterations of enhanced BMPs before target action levels are met. Stage I, II, and/or III BMPs may or may not be necessary at any given Site, depending on the specifics of that Site.

1. **"Stage 0" BMPs**

For all Sites identified in the Appendix A of this Permit or in the facility's SDPPP, the Permittees must implement and complete installation of the following "Stage 0" BMPs, for every Site within one (1) year from the effective date of the Permit. Failure to implement any of the following controls is a violation of this Permit.

a. **Erosion and Sedimentation Controls.** The Permittees must minimize to the extent achievable onsite erosion and sedimentation. The Permittees must implement structural and non-structural, vegetative, and/or stabilization control measures, that are necessary to achieve this requirement.

b. **Management of Runoff.** The Permittees must divert, infiltrate, reuse, contain or otherwise reduce storm water run-on/runoff, to minimize, to the extent achievable, pollutants in discharges. The Permittees must implement storm water runoff management practices, e.g., permanent structural control measures that are necessary to minimize, to the extent achievable, 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.

c. **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.

d. **Unauthorized Discharges.** The Permittees must eliminate discharges of process wastewater, spills or leaks of toxic or hazardous materials, contaminated groundwater, or any

contaminated non-storm water to receiving waters that are not authorized by this Permit. Such discharges are unlawful.

e. Maintenance of Control Measures. The Permittees must maintain all control measures, required by this Permit, in effective operating condition. Failure to do so is a violation of this Permit. (Each of these control measures must be described in the SDPPP.) 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).

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 to ensure that the quality of Permittees' storm water discharge is not diminished.

f. Modifications to Control Measures. The Permittees must take corrective action(s) to modify control measures as appropriate to address deficiencies.

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

- Must implement controls to ensure that no solid materials, including floatable debris, are discharged to receiving waters, except as authorized by a permit issued under section 404 of the CWA;
- Must minimize the generation of dust, along with off-site vehicle tracking of raw, final or waste materials, or sediments;
- Must minimize, or to the extent achievable, eliminate the introduction of raw, final, or waste materials to exposed areas; and
- Must place flow velocity dissipation devices at discharge locations and along the length of any discharge channel if the flows would otherwise create erosive conditions.

h. Construction Activity Permit Associated with Site Remediation.

If disturbance of soil is required to install a BMP, the Permittees shall take all necessary steps to minimize migration of sediments and runoff from disturbed sites. Steps to minimize discharges of contaminated runoff during remediation activity shall be included in the BMP or SDPPP update document. This permit authorizes storm water discharges from the disturbed Sites (covered by this permit) 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.

i. **More Extensive BMP option.** The Permittees may choose to implement more extensive BMPs at any point. Examples of such BMPs, include, but are not limited to, removal of contaminated soils through excavation (e.g. cleanup), capping of Sites using impervious cover, or implementation of structural changes to eliminate run-on and/or provide for total retention of contaminated waters to ensure discharge meet applicable target action levels from a Site or a group of Sites to the environment. If the Permittees decide to apply such more extensive BMPs at the first year of the permit, the Permittees will have up to three (3) years from the initial signature of the SDPPP to complete such BMPs. Sites with PCBs levels above 0.014 µg/l are required to implement more extensive BMPs under this timeline. If the Permittees choose to apply such more extensive BMP after one year from the effective date of the permit, the Permittees shall request EPA for approval of extended schedule on a case-by-case basis.

2. Inspections

The Permittees must conduct the following inspections for every Site in addition to visual inspections as specified in subsection 3.c.(3) below. The facility's Pollution Prevention Team (as identified in the Permittees' SDPPP – see Section B of the Permit) may conduct a combined inspection for a Site, if appropriate.

a. **Erosion Reevaluation**

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

b. **Post-Storm Inspection**

The facility's Pollution Prevention Team must inspect BMPs 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.

c. Inspection Report

The facility's Pollution Prevention Team must prepare a report which summarizes each post-storm inspection and/or erosion reevaluation performed in addition to visual inspections as specified in subsection 3.c.(3) below. All post-storm inspection and all erosion reevaluation reports shall be included with or incorporated into the Semi-annual Status Report as described in Section C, Part I of the Permit. All post-storm inspection and erosion reevaluation reports shall include, at a minimum, the following items:

- (1) The personnel who conduct the inspections.
- (2) Date(s) on which inspection was performed.
- (3) A written summary of major observations, including observation of no deficiency.
- (4) A summary of evidence of potential contaminants, BMP failure, or alter of management structure or runoff pathway, and etc.
- (5) Actions that should be taken to correct noted deficiencies.
- (6) Photodocumentation of findings at Site if necessary.
- (7) The signature of delegated official of the Permittees and certification of findings, including observation of no deficiency.

3. Confirmation Monitoring Requirements

The Permittees shall monitor storm water discharges from Sites at associated site monitoring areas (SMAs) to ensure such discharges do not exceed applicable target action levels. The Permittees shall start confirmation monitoring after site-specific BMPs are installed in accordance with Permittees' SDPPP. Pollutants of concern shall be monitored by the Permittees as specified in Appendix B.

a. Applicable Target Action Levels

Total, unless indicated	CAS No.	STORET	MLQ (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
Boron, dissolved	7440-42-8	01022	100	5000	---

Total, unless indicated	CAS No.	STORET	MQL (µg/l)(*1)	ATAL (µg/l)(*2)	MTAL (µg/l)(*3)
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) (*2)	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.

b. Sampling Location

All samples taken for purposes of confirmation monitoring shall be taken in compliance with the monitoring requirements specified below at sampling points which are called site monitoring areas (SMAs) specified in the Permittee's SDPPP. 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 the Permittees' SDPPP. A sampling point or SMA may be relocated, upon approval by EPA, if the Permittees determine the sampling point or SMA is no longer representative of the drainage area for a Site or Sites, provided technical justification for the relocation is placed in the SWPPP. The selection, or relocation, of a SMA shall be based on reasonable site accessibility for sampling purposes and Permittees' best judgment as to whether samples taken at those particular points will be representative of discharges in the drainage areas. The Permittees shall submit the request for change of sampling location to EPA (and a copy to NMED) no less than fifteen (15) days prior to the anticipated change.

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

- Location of each Site within the SMA drainage area;
- If more than one Site is monitored by a SMA, information to demonstrate those Sites are expected to discharge substantially identical effluents;
- 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; and
- Justification of any change of sampling points.

c. Sampling Procedures

Any sampling performed for purposes of confirmation monitoring at a particular SMA must be performed following a storm event which results in an actual discharge from that Site or Sites (referred to herein as a "measurable storm event"), provided the interval since the preceding measurable 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 discharge of runoff from the regulated Sites. 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.

(1) "Stage 0" Confirmation Samples

Monitoring requirements and frequency of sampling for each pollutant of concern following installation and implementation of "Stage 0" BMPs vary on a site-by-site basis as specified below:

(a) For Sites at which basic "Stage 0" BMPs 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. Only one (1) confirmation sample is required for PCB analysis.

(b) For Sites at which "Stage 0" BMPs are installed within the first year 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 one (1) year after the installation of "Stage 0" BMPs. Only one (1) confirmation sample is required for PCB analysis.

(2) 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 BMPs at the Site or Sites being monitored involves soil disturbance. As described in subparagraph (4)(a) below, if soil disturbance is involved, the Permittees must again sample for all listed pollutants of concern at that Site or SMA.

(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.

(3) Confirmation Results above Target Action Levels

(a) If any 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 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 BMPs, and initiate "Stage I" enhanced BMPs for all Sites within the SMA drainage area within ninety (90) days from receipt of the analytical result. The "Stage I" enhanced BMPs shall be completed within one (1) year from receipt of analytical results. At least two confirmation samples (or one confirmation sample for PCBs) 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) within one (1) year after installation of "Stage I" enhanced BMPs.

(b) If any of the confirmation samples taken at a particular SMA following installation of the one-year "Stage I" enhanced BMPs required under item (a) above are greater than the applicable MTAL (or applicable MQL, whichever is greater) or the average of the confirmation 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 enhanced BMPs, and initiate the "Stage II" enhanced BMPs within ninety (90) days from receipt of the analytical result. "Stage II" enhanced BMPs shall be installed and implemented within one (1) year from receipt of analytical results. At least two confirmation samples (or one confirmation sample for PCBs) 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) within one (1) year after installation of "Stage II" enhanced BMPs.

(c) If any of the confirmation samples taken at a particular SMA following installation of the "Stage II" enhanced BMPs required under item (b) above are greater than the applicable MTAL (or applicable MQL, whichever is greater) or the average of the confirmation sampling results is greater than the applicable ATAL (or applicable MQL, whichever is greater), the Permittees shall install and implement a "Stage III" or "final BMP" no later than October 1, 2015. At least two confirmation samples (or one confirmation sample for PCBs) 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 within one (1) year after installation of the "Stage III" or "final Stage" BMPs. EPA may waive confirmation samples for capping or total retention BMPs on a case-by-case basis.

(4) Additional Sampling Requirements

(a) If BMP installation 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 A.3.a. 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 as a "No Exposure" Site, provided such "No Exposure" status has been verified 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) 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 BMP-failure, erosion problems, re-exposure of "no exposure," 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 (or one confirmation sample for PCBs) 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, BMPs which are equivalent to "Stage III" or "extensive" BMPs as described in Section A.1.i. of the Permit 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 BMP maintenance prior to any evidence of discharge of contaminated runoff.

(d) If, during any one (1) year period in which two (2) confirmation samples are required, only one confirmation sample could be collected due to lack of 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. If no confirmation sample could be collected during the one (1) year period due to lack of a measurable storm event, confirmation sampling shall continue until at least one sample is collected. 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.

(e) **Monitoring Location Change.** If the location of any sampling point or 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. If the location of a SMA has not changed since the previous confirmation sampling event, confirmation samples may be analyzed only for pollutants which exceeded the applicable target action levels in the last confirmation monitoring results.

d. Alternative Compliance

(1) If after "Stage III" or "final stage" BMPs have been installed, the discharge of storm water from a Site or Sites still shows greater than applicable target action levels, the Permittees may request that EPA evaluate the Site or Sites to determine whether Permittees have achieved compliance with the requirements of this Permit. EPA will make a determination based on such an evaluation on installed on-site BMPs, upstream soil or water data, site-specific soil data, precipitation data, and any other supporting documentation on a case-by-case basis.

(2) If after "Stage III" or "final stage" BMPs have been installed, the discharge of storm water from a Site or Sites still shows greater than applicable target action levels, the Permittees may request that EPA make a determination that no further action is needed at a particular Site or Sites in regard to a particular pollutant or pollutants based on a finding that values in excess of applicable target action levels are attributable solely to natural background levels of the subject pollutant(s) at the particular Site or Sites. In order to use this provision, the Permittees must submit to EPA for review and approval (1) documentation laying out the supporting rationale for establishing background levels of the applicable pollutants at the Site or Sites in question; (2) documentation demonstrating that pollutant values above target action levels are attributable solely to natural background pollutant levels; and (3) documentation demonstrating that pollutant levels in the storm water runoff from the Site or Sites in question are less than or equal to the concentration of that pollutant in the natural background.

(3) All required documentation related to request for alternative compliance must be included in the facility's SDPPP and made publicly available. EPA must review and approve any such requests before they become final.

B. SITE DISCHARGE POLLUTION PREVENTION PLAN (SDPPP)

The Permittees must prepare a Site Discharge Pollution Prevention Plan (SDPPP) for the facility. 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 BMPs selected to meet the applicable target action levels specified in Section A.3.a. above. In addition, the facility's SDPPP must contain all of the

elements described below. Additionally, the SDPPP must address the inspection requirements set forth in Section A.2. above.

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 or referred to 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 BMPs 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 Permittees must identify the control measures having been implemented for Sites to address the pollutant sources identified above, and to address storm water run-on that commingles with discharges associated with industrial activity. Facility's SDPPP must include sufficient detail to identify and describe the Site-specific BMPs.

f. Schedules for BMPs Installation. The SDPPP must include schedules for BMP installation and implementation for each Site (showing installation and implementation of "Stage 0" BMPs for each Site) no later than one (1) year from the effective date of the permit to ensure all Sites meet the basic BMP requirements or no later than three (3) years from the initial signature of Permittees' SDPPP to complete the three-year BMP option as described in subsection A.1.i.

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. If the run-on cannot be addressed or diverted by the permittees, the permitting authority should be notified. The Permittees, then, may request for a Force Majeure for missing the BMP

compliance schedules for that particular Site. The Permittees shall consult with the permitting agency to develop alternate BMPs and schedules.

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:

- Locations where samples are to be collected, including any determination that two or more Sites are substantially identical;
- Person(s) or positions of person(s) responsible for sample collection;
- Parameters to be sampled and frequency of sampling for each parameter;
- 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 Section A.2. of the Permit above.

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 includes records and documents as described in subsection 1 above that the Permittees must compile 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.

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

- Dates of training sessions, names of employees trained, and subject matter of training;
- Sampling reports including sampling dates, analytical results, outfall locations, name and qualifications of technician;
- Dates of all inspections, including name and qualifications of inspector, and other information as required in subsection A.2.c. and inspections described in subsection A.3.c(3);
- 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;
- 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; and

- Justification for any change of sampler location.

These records shall be compiled and maintained alongside your SDPPP document thereby providing a consolidated record of documented storm water requirements and implementation practices.

3. Required Modifications

The Permittees must update the SDPPP every year to reflect:

- Construction or a change in design, operation, or maintenance at the facility have a significant impact on the discharge, or potential for discharge, of pollutants from the facility;
- Findings of deficiencies in control measures during inspection or based on analytical monitoring results;
- Any change of monitoring requirement or compliance status;
- Any change of SMA location; and
- 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. This permit requires that the permittees keep records of these changes with the SDPPP so that the SDPPP be kept up-to-date with any of these changes. Changes as supplement to the SDPPP document must be made no later than fourteen (14) days from the date the Permittees discover or observe an event requiring a modification. All changes shall also be reported in the Semi-Annual Status Report as specified in section C below.

The delegated official of the Permittees must sign and date the annual SDPPP update no later than March 1 of the year.

4. 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.

The Permittees must provide a copy (either paper, electronic or online copy) of the SDPPP 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. EPA encourages the Permittees to post the SDPPP online.

C. REPORTING

1. Sampling Reporting

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, Lab Report Received Date, the value of PCB sampling that exceeds 0.014 µg/l, pollutants of concern greater than the target action levels, targeted BMPs completion date, actual BMP completion date, whether or not the Permittees are compliant with BMPs and BMP type. 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).

The reporting period is from January 1st to December 31st. The first reporting period is from the effective date of the permit to December 31, 2009, and the first DMR is due on March 1, 2010. 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. Semi-Annual Status Reports

The Permittees shall submit semi-annual status reports for each SMA (or Site) to summarize Site-specific compliance status during the period of January 1st through June 30th or July 1st through December 31st. The status report shall include, at the minimum, the following information:

- SMA and associated Outfall and Site(s) numbers/identifications;
- Monitoring results available during the reporting period;
- Identification of pollutants which exceed applicable MTAL or ATAL;
- Description of BMPs or corrective actions to be taken or have been taken, including date and progress update;
- Identification of Sites which meet No Exposure status;
- Identification of Sites which meet No Further Action under RCRA or which have been issued a Certificate of Completion under the NMED Consent Order;
- Inspection report;
- Highlights of any change of compliance status from last semi-annual Status Report; and
- Lists of requests for EPA's approval, such as change of monitoring location or Site deletion.

Reports in electronic formats (e.g., compact discs or other acceptable media) shall be submitted to EPA no later than March 1st or September 1st. A copy of each report shall be kept with the facility's SDPPP and can be used as part of SDPPP record. Copies in electronic formats shall also be sent to 6WQ-PP and SWQB.

D. 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:

1. 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));
2. The Site has installed permanent BMPs followed by confirmation sampling so that all point sources have been permanently removed;
3. The Site has ceased all discharges permanently; or
4. The Site has met RCRA's No Further Action status or the Site has received a Certificate of Completion under NMED's Consent Order and confirmation samples of runoff have demonstrated not greater than all applicable target action levels.

EPA may approve such a request in writing to effectively remove a Site from the permit prior to the expiration of the permit without a modification of this 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.

E. WATERSHED PROTECTION APPROACH

The Permittees may voluntarily install watershed-based BMPs, such as sediment barrier, to mitigate sediment or storm runoff to reach main channels of canyons and/or Rio Grande. The Permittees may include information and monitoring data of such watershed-based BMPs in the Semi-Annual Status Report or SDPPP.

F. 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 with supplemental information for at least three years after the issuance of next permit renewal.

G. REOPENER

The NMED has been working on the development of Total Maximum Daily Loads (TMDLs) in certain watersheds within the boundary of the facility. This permit may be reopened to incorporate EPA approved TMDLs. Any changes of monitoring and/or BMP requirements in accordance with a permit modification shall be addressed in the Semi-Annual Status Report and in the annual SDPPP update.

PART II - OTHER CONDITIONS**A. MINIMUM QUANTIFICATION LEVEL (MQL)**

If any individual analytical test result is less than the minimum quantification level listed in Part I.A.3.a. or in Appendix C, a value of zero (0) may be used for that individual result for reporting purpose.

The permittee may develop an effluent specific method detection limit (MDL) in accordance with Appendix B to 40CFR136. For any pollutant for which the permittee determines an effluent specific MDL, the permittee shall send to the EPA Region 6 NPDES Permits and TMDL Branch (6WQ-P) a report containing QA/QC documentation, analytical results, and calculations necessary to demonstrate that the effluent specific MDL was correctly calculated. An effluent specific minimum quantification level (MQL) shall be determined in accordance with the following calculation:

$$\text{MQL} = 3.3 \times \text{MDL}$$

The permittees may also develop congener-basis storm water effluent-specific MQLs for PCBs. Upon written approval by the EPA Region 6 NPDES Permits and TMDL Branch (6WQ-P), the effluent specific MQL may be utilized by the permittee for all future Discharge Monitoring Report (DMR) reporting requirements.

B. 24-HOUR ORAL REPORTING

Exceedances of maximum target levels (MTLs) for any applicable pollutants shall be reported orally to EPA Region 6, Compliance and Assurance Division, Water Enforcement Branch (6EN-W), Dallas, Texas and NMED, Surface Water Quality Bureau (SWQB), Santa Fe, New Mexico within 24 hours from the time the permittee becomes aware of the exceedance.

C. COMPOSITE SAMPLING

Unless otherwise specified in this permit, the term "composite sample" means samples collected either by an automatic sampler or by manual, during the whole or part of a rainfall period, are composited prior to an analysis. The permittee may use either grab samples or flow-weighted composite samples for monitoring purpose for specific Sites as long as it keeps practice consistency.

D. DATA AVERAGE

The average is the geometric mean of applicable monitoring results at the SMA. If all analytical results are below analytical method detect level, a value of "zero" may be reported. If one or more data are above detect level, a value of one-half ($\frac{1}{2}$) of the detect level shall be assigned to those below detect level data for calculation purpose. If the

average value of a specific pollutant is below its MQL, a value of zero (0) may be reported for the average.

If a new or an enhanced BMP is installed, the average is calculated based on analytical results from samples taken after installation of the BMP.

E. PERMIT REOPENER

The Permit may be reopened and modified during the life of the Permit if relevant portions of New Mexico's Water Quality Standards for Interstate and Intrastate Streams are revised, or new State water quality standards are established and/or remanded by the New Mexico Water Quality Control Commission.

The Permit also may be reopened and modified if new information, e.g., EPA approved TMDLs, and etc., is received that was not available at the time of permit issuance that would have justified the application of different permit conditions at the time of permit issuance.

PART III - STANDARD CONDITIONS FOR NPDES PERMITS**A. GENERAL CONDITIONS****1. INTRODUCTION**

In accordance with the provisions of 40 CFR Part 122.41, et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the "Act") as well as ALL applicable regulations.

2. DUTY TO COMPLY

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. TOXIC POLLUTANTS

a. Notwithstanding Part III.A.5, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.

b. 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 established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

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. The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date. Continuation of expiring permits shall be governed by regulations promulgated at 40 CFR Part 122.6 and any subsequent amendments.

5. PERMIT FLEXIBILITY

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62-64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. PROPERTY RIGHTS

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

7. DUTY TO PROVIDE INFORMATION

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

8. CRIMINAL AND CIVIL LIABILITY

Except as provided in permit conditions on "Bypassing" and "Upsets", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

9. OIL AND HAZARDOUS SUBSTANCE LIABILITY

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

10. 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.

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.

B. PROPER OPERATION AND MAINTENANCE**1. NEED TO HALT OR REDUCE 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. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

2. DUTY TO MITIGATE

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. PROPER OPERATION AND MAINTENANCE

- a. 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 permittee as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will 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 backup 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 this permit.
- b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

4. BYPASS OF TREATMENT FACILITIES**a. 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 Parts III.B.4.b. and 4.c.

b. NOTICE**(1) ANTICIPATED BYPASS**

If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) UNANTICIPATED BYPASS

The permittee shall, within 24 hours, submit notice of an unanticipated bypass as required in Part III.D.7.

c. PROHIBITION OF BYPASS

(1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
- (c) The permittee submitted notices as required by Part III.B.4.b.

(2) The Director may allow an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed at Part III.B.4.c(1).

5. UPSET CONDITIONS**a. EFFECT OF AN UPSET**

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part III.B.5.b. 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.

b. CONDITIONS NECESSARY FOR A DEMONSTRATION OF UPSET

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

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated;
- (3) The permittee submitted notice of the upset as required by Part III.D.7; and,
- (4) The permittee complied with any remedial measures required by Part III.B.2.

c. BURDEN OF PROOF

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

6. REMOVED SUBSTANCES

Unless otherwise authorized, solids, sewage sludges, filter backwash, or other pollutants removed in the course of treatment or wastewater control shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

7. PERCENT REMOVAL (PUBLICLY OWNED TREATMENT WORKS)

For publicly owned treatment works, the 30-day average (or Monthly Average) percent removal for Biochemical Oxygen Demand and Total Suspended Solids shall not be less than 85 percent unless otherwise authorized by the permitting authority in accordance with 40 CFR 133.103.

C. MONITORING AND RECORDS**1. INSPECTION AND ENTRY**

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by the law to:

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

2. REPRESENTATIVE SAMPLING

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

3. RETENTION OF RECORDS

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

4. RECORD CONTENTS

Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;

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

5. MONITORING PROCEDURES

- a. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.
- b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.
- c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

6. FLOW MEASUREMENTS

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than 10% from true discharge rates throughout the range of expected discharge volumes.

D. REPORTING REQUIREMENTS

1. PLANNED CHANGES

a. INDUSTRIAL PERMITS

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

- (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b); or,
- (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements listed at Part III.D.10.a.

b. MUNICIPAL PERMITS

Any change in the facility discharge (including the introduction of any new source or significant discharge or significant changes in the quantity or quality of existing discharges of pollutants) must be reported to the permitting authority. In no case are any new connections, increased flows, or significant changes in influent quality permitted that will cause violation of the effluent limitations specified herein.

2. ANTICIPATED NONCOMPLIANCE

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

3. TRANSFERS

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

4. DISCHARGE MONITORING REPORTS AND OTHER REPORTS

Monitoring results must be reported on Discharge Monitoring Report (DMR) Form EPA No. 3320-1 in accordance with the "General Instructions" provided on the form. The permittee shall submit the original DMR signed and certified as required by

Part III.D.11 and all other reports required by Part III.D. to the EPA at the address below. Duplicate copies of DMR's and all other reports shall be submitted to the appropriate State agency (ies) at the following address (es):

EPA:

Compliance Assurance and Enforcement Division
Water Enforcement Branch (6EN-W)
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

New Mexico:

Program Manager
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 5469
1190 Saint Francis Drive, Room N2050
Santa Fe, NM 87502-5469

5. ADDITIONAL MONITORING BY THE PERMITTEE

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 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 Discharge Monitoring Report (DMR). Such increased monitoring frequency shall also be indicated on the DMR.

6. AVERAGING OF MEASUREMENTS

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

7. TWENTY-FOUR HOUR REPORTING

a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain the following information:

- (1) A description of the noncompliance and its cause;
- (2) The period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,
- (3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

b. The following shall be included as information which must be reported within 24 hours:

- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
- (2) Any upset which exceeds any effluent limitation in the permit; and,
- (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part II (industrial permits only) of the permit to be reported within 24 hours.

c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

8. OTHER NONCOMPLIANCE

The permittee shall report all instances of noncompliance not reported under Parts III.D.4 and D.7 and Part LB (for industrial permits only) at the time monitoring reports are submitted. The reports shall contain the information listed at Part III.D.7.

9. OTHER INFORMATION

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

10. CHANGES IN DISCHARGES OF TOXIC SUBSTANCES

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Director as soon as it knows or has reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (1) One hundred micrograms per liter (100 µg/L);

- (2) Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2, 4-dinitro-phenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
- (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the Director.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine 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":

- (1) Five hundred micrograms per liter (500 µg/L);
- (2) One milligram per liter (1 mg/L) for antimony;
- (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the Director.

11. SIGNATORY REQUIREMENTS

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

a. ALL PERMIT APPLICATIONS shall be signed as follows:

(1) FOR A CORPORATION - by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,

(b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) FOR A PARTNERSHIP OR SOLE PROPRIETORSHIP - by a general partner or the proprietor, respectively.

(3) FOR A MUNICIPALITY, STATE, FEDERAL, OR OTHER PUBLIC AGENCY - by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

(a) The chief executive officer of the agency, or

(b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

b. ALL REPORTS required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (1) The authorization is made in writing by a person described above;
- (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,
- (3) The written authorization is submitted to the Director.

c. 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."

12. AVAILABILITY OF REPORTS

Except for applications, effluent data permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

E. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS

1. CRIMINAL

a. NEGLIGENT VIOLATIONS

The Act provides that any person who negligently violates permit conditions implementing Section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b. KNOWING VIOLATIONS

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

c. KNOWING ENDANGERMENT

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.

d. FALSE STATEMENTS

The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 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 shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309.c.4 of the Clean Water Act)

2. CIVIL PENALTIES

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$27,500 per day for each violation.

3. ADMINISTRATIVE PENALTIES

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

a. CLASS I PENALTY

Not to exceed \$11,000 per violation nor shall the maximum amount exceed \$27,500.

b. CLASS II PENALTY

Not to exceed \$11,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$137,500.

F. DEFINITIONS

All definitions contained in Section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in this permit, additional definitions of words or phrases used in this permit are as follows:

1. ACT means the Clean Water Act (33 U.S.C. 1251 et. seq.), as amended.
2. ADMINISTRATOR means the Administrator of the U.S. Environmental Protection Agency.
3. APPLICABLE EFFLUENT STANDARDS AND LIMITATIONS means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards or performance, toxic effluent standards and prohibitions, and pretreatment standards.
4. APPLICABLE WATER QUALITY STANDARDS means all water quality standards to which a discharge is subject under the Act.
5. BYPASS means the intentional diversion of waste streams from any portion of a treatment facility.
6. DAILY DISCHARGE means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day. "Daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be arithmetic average (weighted by flow value) of all samples collected during that sampling day.
7. DAILY MAXIMUM discharge limitation means the highest allowable "daily discharge" during the calendar month.
8. DIRECTOR means the U.S. Environmental Protection Agency Regional Administrator or an authorized representative.
9. ENVIRONMENTAL PROTECTION AGENCY means the U.S. Environmental Protection Agency.
10. GRAB SAMPLE means an individual sample collected in less than 15 minutes.
11. INDUSTRIAL USER means a non-domestic discharger, as identified in 40 CFR 403, introducing pollutants to a publicly owned treatment works.
12. MONTHLY AVERAGE (also known as DAILY AVERAGE) discharge limitations means the highest allowable average of "daily discharge(s)" over a calendar month, calculated as the sum of all "daily discharge(s)" measured during a calendar month divided by the number of "daily discharge(s)" measured during that month. When the permit establishes daily average concentration effluent limitations or conditions, the daily average concentration means the arithmetic average (weighted by flow) of all "daily discharge(s)" of concentration determined during the calendar month where C = daily concentration, F = daily flow, and n = number of daily samples; daily average discharge =

$$\frac{C_1F_1 + C_2F_2 + \dots + C_nF_n}{F_1 + F_2 + \dots + F_n}$$
13. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the Act.
14. 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.
15. SEWAGE SLUDGE means the solids, residues, and precipitates separated from or created in sewage by the unit processes of a publicly owned treatment works. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and storm water runoff that are discharged to or otherwise enter a publicly owned treatment works.
16. TREATMENT WORKS means any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial wastes of a liquid nature to implement Section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and their appurtenances, extension, improvement, remodeling, additions, and alterations thereof.

17. 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.
18. FOR FECAL COLIFORM BACTERIA, a sample consists of one effluent grab portion collected during a 24-hour period at peak loads.
19. The term "MGD" shall mean million gallons per day.
20. The term "mg/L" shall mean milligrams per liter or parts per million (ppm).
21. The term "µg/L" shall mean micrograms per liter or parts per billion (ppb).

22. MUNICIPAL TERMS

- a. 7-DAY AVERAGE or WEEKLY AVERAGE, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week. The 7-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
- b. 30-DAY AVERAGE or MONTHLY AVERAGE, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. The 30-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.
- c. 24-HOUR COMPOSITE SAMPLE consists of a minimum of 12 effluent portions collected at equal time intervals over the 24-hour period and combined proportional to flow or a sample collected at frequent intervals proportional to flow over the 24-hour period.
- d. 12-HOUR COMPOSITE SAMPLE consists of 12 effluent portions collected no closer together than one hour and composited according to flow. The daily sampling intervals shall include the highest flow periods.
- e. 6-HOUR COMPOSITE SAMPLE consists of six effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.
- f. 3-HOUR COMPOSITE SAMPLE consists of three effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.

Watershed	Canyon	SMA ID	Site ID	Receiving Water
Los Alamos/Pueblo	Rendija Canyon	R-SMA-0.5	C-00-020	Rendija Canyon
		R-SMA-1	C-00-041	Rendija Canyon
		R-SMA-1.9	00-015	Rendija Canyon
		R-SMA-2	00-011(c)	Cabra Canyon - tributary to Rendija Canyon
		R-SMA-2.3	00-011(e)	Rendija Canyon
		R-SMA-2.5	00-011(a)	Rendija Canyon
	Bayo Canyon	B-SMA-0.5	10-001(a)	Bayo Canyon
			10-001(b)	
			10-001(c)	
			10-001(d)	
			10-004(a)	
			10-004(b)	
			10-008	
			10-009	
	Bayo Canyon	B-SMA-1	00-011(d)	Bayo Canyon
	Pueblo Canyon	ACID-SMA-1	00-030(g)	Acid Canyon - tributary to Pueblo Canyon
	Pueblo Canyon	ACID-SMA-2	00-030(f)	Acid Canyon - tributary to Pueblo Canyon
			01-002(b)-00	
			45-001	
			45-002	
	Pueblo Canyon	ACID-SMA-2.1	01-002(b)-00	Acid Canyon - tributary to Pueblo Canyon
	Pueblo Canyon	P-SMA-0.3	00-018(b)	Pueblo Canyon
	Pueblo Canyon	P-SMA-1	73-001(a)	Pueblo Canyon
			73-004(d)	
	Pueblo Canyon	P-SMA-2	73-002	Pueblo Canyon
			73-006	
	Pueblo Canyon	P-SMA-2.15	31-001	Pueblo Canyon
	Pueblo Canyon	P-SMA-2.2	00-019	Graduation Canyon - tributary to Pueblo Canyon
	Pueblo Canyon	P-SMA-3	00-018(a)	Pueblo Canyon
	Los Alamos Canyon	LA-SMA-0.8	03-055(c)	Los Alamos Canyon
Los Alamos Canyon	LA-SMA-0.9	00-017	Los Alamos Canyon	
		C-00-044		
Los Alamos Canyon	LA-SMA-1	00-017	Los Alamos Canyon	
		C-00-044		
Los Alamos Canyon	LA-SMA-1.1	43-001(b2)	Los Alamos Canyon	
Los Alamos Canyon	LA-SMA-1.2	C-43-001	Los Alamos Canyon	
Los Alamos Canyon	LA-SMA-2.1	01-001(f)	Los Alamos Canyon	
Los Alamos Canyon	LA-SMA-2.3	01-001(b)	Los Alamos Canyon	
Los Alamos Canyon	LA-SMA-3.1	01-001(e)	Los Alamos Canyon	
		01-003(a)		

Watershed	Canyon	SMA ID	Site ID	Receiving Water
	Los Alamos Canyon	LA-SMA-3.9	01-001(g)	Los Alamos Canyon
			01-006(a)	
	Los Alamos Canyon	LA-SMA-4.1	01-003(b)	Los Alamos Canyon
			01-006(b)	
	Los Alamos Canyon	LA-SMA-4.2	01-001(c)	Los Alamos Canyon
			01-006(c)	
			01-006(d)	
	Los Alamos Canyon	LA-SMA-5	01-001(d)	Los Alamos Canyon
			01-003(e)	
			01-006(h)	
	Los Alamos Canyon	LA-SMA-5.2	01-003(d)	Los Alamos Canyon
	Los Alamos Canyon	LA-SMA-5.3	C-41-004	Los Alamos Canyon
	Los Alamos Canyon	LA-SMA-5.31	41-002(c)	Los Alamos Canyon
	Los Alamos Canyon	LA-SMA-5.33	32-004	Los Alamos Canyon
	Los Alamos Canyon	LA-SMA-5.36	32-002(b)	Los Alamos Canyon
32-003				
Los Alamos Canyon	LA-SMA-5.5	02-003(a)	Los Alamos Canyon	
		02-003(b)		
		02-003(e)		
		02-004(a)		
		02-005		
		02-006(b)		
		02-006(c)		
		02-006(d)		
		02-006(e)		
		02-007		
		02-008(a)		
		02-008(c)		
		02-009(a)		
		02-009(b)		
		02-009(c)		
02-011(a)				
02-011(b)				
02-011(c)				
02-011(d)				
Los Alamos/Pueblo	Los Alamos Canyon	LA-SMA-5.9	21-009	BV Canyon - tributary to Los Alamos Canyon
			21-013(b)	
			21-013(g)	
			21-018(a)	
			21-021	
			21-023(c)	
	21-027(d)			
Los Alamos Canyon	LA-SMA-6.25	21-021	Los Alamos Canyon	
		21-024(d)		