

**North Dakota Department of Environmental Quality Public Notice  
Issue of an NDPDES Permit**

Public Notice Date: 8/12/2020

Public Notice Number: ND-2020-023

**Purpose of Public Notice**

The Department intends to issue the following North Dakota Pollutant Discharge Elimination System (NDPDES) Discharge Permit under the authority of Section 61-28-04 of the North Dakota Century Code.

**Permit Information**

Application Date: 3/30/2020

Application Number: NDP026981

Applicant Name: Dickinson Rail Terminal

Mailing Address: 1611 E. Century Ave, Bismarck, ND 58503

Telephone Number: 701.250.1959

Proposed Permit Expiration Date: 9/30/2025

**Facility Description**

Dickinson Rail Terminal is located at 3812 116th Ave SW in Dickinson, ND 58601 in Stark County. The facility is an existing rail terminal that has expanded operations by adding two boilers. Treated process wastewater from the facility will discharge to the City of Dickinson's publicly owned treatment works. The facility is a significant non-categorical industrial user that requires a permit issued under the North Dakota Pollutant Discharge Elimination System program. This discharge is a new source subject to 40 CFR Part 403 and must comply with NDAC 33.1-16-01.1.

**Tentative Determinations**

Proposed effluent limitations and other permit conditions have been made by the Department. They assure that State Water Quality Standards and applicable provisions of the FWPCA will be protected.

**Information Requests and Public Comments**

Copies of the application, draft permit, and related documents are available for review. Comments or requests should be directed to the ND Dept of Env Quality, Div of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 or by calling 701.328.5210.

All comments received by September 11, 2020 will be considered prior to finalizing the permit. If there is significant interest, a public hearing will be scheduled. Otherwise, the Department will issue the final permit within sixty (60) days of this notice. If you require special facilities or assistance relating to a disability, call TDD at 1.800.366.6868.

**STATEMENT OF BASIS FOR NDPDES PERMIT  
NDP026981**

**DICKINSON RAIL TERMINAL  
Industrial Pretreatment (Significant Industrial User)  
August 2020**

**INTRODUCTION**

The Federal Clean Water Act (CWA, 1972, and later amendments in 1977, 1981, and 1987, etc.) established water quality goals for the navigable (surface) waters of the United States. One mechanism for achieving the goals of the CWA is the National Pollutant Discharge Elimination System (NPDES), which the US Environmental Protection Agency (EPA) oversees. In 1975, the State of North Dakota was delegated primacy of the NPDES program by the EPA. The North Dakota Department of Environmental Quality, hereafter referred to as “department”, has been designated the state water pollution control agency for all purposes of the CWA as amended [33 U.S.C. 1251, et seq.], and is hereby authorized to take all action necessary or appropriate to secure to this state the benefits of the act and similar federal acts. The department’s authority and obligations for the wastewater discharge permit program is in North Dakota Administrative Code (NDAC) chapter 33.1-16, which was adopted under North Dakota Century Code (NDCC) chapter 61-28. In North Dakota, these permits are referred to as North Dakota Pollutant Discharge Elimination System (NDPDES) permits.

This facility falls under the Industrial Pretreatment Program, which is under the NDPDES program. The department was delegated pretreatment authority from the EPA in 2005. The following regulations apply to NDPDES permits issued to Significant Industrial Users:

- Procedures the department follows for issuing NDPDES permits (NDAC chapter 33.1-16-01);
- Pretreatment Regulations (NDAC chapter 33.1-16-01.1);
- 40 Code of Federal Regulations (CFR) Section 403.

These rules require any treatment facility operator to obtain an NDPDES permit before discharging wastewater to waters of the state. These rules include commercial or industrial wastewater discharges to sewage systems operated by municipalities or public entities that discharge into waters of the state. Regulations adopted by the state also define the basis for limits on each discharge and for other requirements imposed by the permit.

According to NDAC section 33.1-16-01-08, the department must prepare a draft permit and accompanying statement of basis and make it available for public review. The department must also publish an announcement (public notice) during a period of thirty days, informing the public where a draft permit may be obtained and where comments regarding the draft permit may be sent (NDAC section 33.1-16-01-07). For more information regarding preparing and submitting comments about the statement of basis and permit, please see **Appendix A – Public Involvement**. Following the public comment period, the department may make changes to the draft NDPDES permit. The department will summarize the responses to comments and changes to the permit in **Appendix D – Response to Comments**.

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## BACKGROUND INFORMATION

**Table 1 – General Facility Information**

<b>Applicant:</b>	Dickinson Rail Terminal
<b>Facility Name and Address:</b>	Dickinson Rail Terminal 3812 116 <sup>th</sup> Ave SW Dickinson, ND 58601
<b>Owner:</b>	Dakota Prairie Refinery, LLC
<b>Operator:</b>	MPLX (Marathon Pipeline Extension)
<b>Permit Number:</b>	NDP026981
<b>Permit Type:</b>	Minor, Pretreatment Significant Industrial User – New Source
<b>Discharge Location:</b>	Internal from pretreatment system to City of Dickinson POTW
<b>Receiving POTW:</b>	City of Dickinson
<b>Standard Industrial Classification Code(s):</b>	4013, 5172
<b>Facility Contact(s):</b>	Heather Miller 701.250.1959 Darren Snow 701.456.6981



**Figure 1 – Location overview of Marathon Dickinson Rail Terminal. Imagery date 5/30/2017.**

## DESCRIPTION OF OPERATIONS

Dickinson Rail Terminal previously operated as an atmospheric tower bottom and naphthalene rail car loading terminal for Marathon Petroleum Company. Biofuels will be loaded at the terminal following processing updates at the local refinery (Dakota Prairie Refinery, LLC) in late 2020. Two new boilers will be active at the rail terminal and will operate one at a time. Piping construction at the facility also accommodates addition of a third boiler for future expansion. Wastewater originates from onsite sanitary, boiler, and cooling systems. Sanitary discharge source water is potable water from the Southwest Water Authority (SWWA). Boiler water includes SWWA potable water, chemicals for boiler operations, and pretreatment water softener blowdown. Cooling water is treated effluent piped from the City of Dickinson's publicly owned treatment works (POTW).

This permit covers the discharge of process wastewater after treatment from rail terminal operations to the City of Dickinson's POTW. This discharge is a new source subject to the 40 CFR Part 403 general pretreatment regulations.

### Pretreatment Process

Discharge to the POTW from the rail terminal consists of sanitary, boiler, and cooling water. Boiler water is treated to reduce corrosion and condition water prior to blowdown discharge. Treated effluent from the City of Dickinson's POTW is added as cooling water to quench boiler blowdown. A temperature indicator monitors the combined cooling water/blowdown wastestream prior to mixing with sanitary flows. A water meter monitors flow of the quenched boiler water after the temperature element, prior to mixing with sanitary flows. Sample points access the combined cooling water/blowdown wastestream prior to, and following, mixing with sanitary wastewater. Discharge is not continuous; wastewater ultimately drains to a wet well and is then pumped to the POTW based on fill level.

### Production Rate

Dickinson Rail Terminal estimates combined intermittent flows average 862,000 gallons discharged per year to the POTW. Average daily flow estimates are 321 gallons per day (gpd) (sanitary), 132 gpd (boiler), and 1,910 gpd (cooling water), totaling 0.002 million gallons per day (MGD). When compared with the POTW's average daily effluent flow (DMR data 2015-present) Dickinson Rail Terminal is anticipated to contribute less than 1% of total effluent flow at the POTW (see **Appendix C – Calculations**).

### Outfall Description

The authorization to discharge provided under this proposed permit is limited to the outfall specifically designated as the permitted discharge location. Discharges at any location not authorized under an NDPDES permit is a violation of the CWA and could subject the person(s) responsible for such discharges to penalties under Section 309 of the CWA. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge within the specified timeframe outlined in this permit could subject such person(s) to criminal penalties as provided under the CWA.

**Table 2 – Outfall location.**

Outfall 001. Internal. Active			
Latitude: 46.859	Longitude: -102.891	County: Stark	
Township: 139 N	Range: 79 W	Section: 14	QQ: B
Description: The outfall is a tie-in point connecting the existing sewer line of the adjacent refinery and city sanitary utility line, downstream of all refinery monitoring or sampling points.			

### **PERMIT STATUS**

This facility is a Significant Industrial User and is therefore subject to pretreatment regulations described in NDAC 33.1-16-01.1. The department proposes to issue this facility's first individual pretreatment permit, allowing process wastewater discharge to the City of Dickinson's POTW.

### **SUMMARY OF COMPLIANCE WITH PRETREATMENT REGULATIONS AND CATEGORICAL LIMITS**

No pretreatment permits have been issued to the facility prior to this application and as such no compliance history is available for review.

### **PROPOSED LIMITS AND SELF-MONITORING REQUIREMENTS**

The permittee is a Significant Non-Categorical Industrial User that requires wastewater monitoring based on the boiler water quenching process. The prohibited discharge of heat in amounts that cause interference at the POTW is covered under NDAC 33.1-16-01.1-02(3)(e).

#### **Technology Based Effluent Limitations**

NDPDES permits issued by the department must specify conditions requiring available and reasonable methods or prevention, control, and treatment of discharges to waters of the state. This facility shall follow all known, available, and reasonable treatment (AKART) so as not to interfere with the operation of the POTW.

#### **Local Limits**

The department has not required the City of Dickinson to develop an approved pretreatment program, thus the department is the pretreatment Control Authority. Pollutant loading from wastewater discharge with technology-based controls in place is not expected to cause problems such as interference, pass-through, or hazardous exposure to workers at the POTW, nor result in unacceptable pollutant levels in the POTW's sludge.

#### **Effluent Limitations**

The department proposes the following effluent limitations for Outfall 001.

**Table 3 – Effluent Limitations, Outfall 001.**

Parameter	Daily Maximum	Monthly Average
Total Facility Flow, MGD	*	Report Monthly Total
Process Flow, gal/day	Report Max. Daily Value	Report Monthly Average
pH a/	Between 5.0 to 12.5 S.U. at all times	
Temperature	< 40 °C (104 °F) at all times	
* This item for the stated parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving POTW.		
a/ The pH, an instantaneous limitation, shall be between 5.0 S.U. and 12.5 S.U. Any single analysis and or measurements beyond this limitation shall be considered a violation of the conditions of this permit.		

Samples and measurements shall be representative of the nature of the regulated wastewater discharge. All compliance samples and measurements shall be taken of the process generated wastewater effluent prior to combining with any other streams. Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304 (h) of the CWA codified in 40 CFR 136.

Any chemical additives used to treat boiler water should be used in accordance with manufacturer's recommendations.

### Self-Monitoring Requirements

The minimum monitoring schedule is detailed below in Table 4. Specified monitoring frequencies take into account the quantity and variability of the discharge, the treatment method, past compliance, pollutant significance, and monitoring cost.

**Table 4 – Self-Monitoring Requirements, Outfall 001**

Parameter	Sample Type	Frequency
Total Facility Flow	Calculated	Monthly
Process Flow, total	Recorder	Daily
pH	Instantaneous	Weekly
Temperature	Instantaneous	Continuous

The permittee shall promptly notify the department and the POTW in advance of any substantial change in the volume or character of pollutants in the permittee's discharge as outlined in 40 CFR 403.12(j).

## OTHER PERMIT CONDITIONS

### General Prohibitions

The permittee shall not introduce into the POTW any pollutant(s) which cause pass through or interference.

### Dilution Prohibition

The permittee is prohibited from diluting its effluent as a partial or complete substitute for adequate treatment to achieve compliance with permit limitations.

### **Reporting and Recordkeeping**

Conditions are based on the authority to specify any appropriate reporting and recordkeeping requirements to prevent and control waste discharges (40 CFR 403.12).

### **Operations and Maintenance**

This permit requirement was included to ensure proper operation and regular maintenance of equipment. This provides safeguards so that constructed facilities are used to their optimum potential in terms of pollutant capture and treatment.

An Operation and Maintenance (O&M) manual shall be required. This manual shall detail sampling procedures taken during or prior to the discharge of wastewater. The manual shall list the person responsible for sampling. This manual shall also identify a list of responsible parties to notify in event of a pretreatment process failure.

### **Spill and Slug Discharge Prevention, Control, and Countermeasure Plan (SPCCP)**

The department has the authority to require the permittee to develop best management practices to prevent a sludge discharge or a spill release under section 402(a)(1) of the CWA. The facility stores chemicals on site from which a potential spill could impact wastewater discharge. The permittee must develop a plan for preventing the release of pollutants to the POTW and/or waters of the state and minimizing damages if such a spill occurs. The SPCCP shall include the following:

1. A description of a reporting system to be used to immediately notify facility management, the POTW operator, and appropriate state, federal, and local authorities of any spills or slug discharges, and provisions to provide a written follow-up report within five days;
2. A description of operator training, equipment, and facilities (including overall facility plan) for preventing, containing, or treating spills or slug discharges;
3. A list of all raw materials, products, chemicals, and hazardous materials used, processed, or stored at the facility; the normal quantity maintained on the premises for each listed material and a map showing where they are located;
4. A description of discharge practices for batch and continuous processes under normal and non-routine circumstances; and,
5. An implementation schedule including additional operator training and procurement and installation of equipment or facilities required to properly implement the plan.

### **Public Notification of Noncompliance**

A list of all industrial users that were in significant noncompliance with Pretreatment Standards or Requirements during any portion of a reporting period may be annually published by the department in a local newspaper. Accordingly, the permittee is apprised that noncompliance with this permit may result in publication of the noncompliance.

## **PERMIT ISSUANCE PROCEDURES**

### **Permit Modifications**

This permit may be modified, revoked and reissued, or terminated for cause. This includes the establishment of limitations or prohibitions based on changes to Water Quality Standards, the development and approval of waste load allocation plans, the development or revision to water quality management plans, changes in sewage sludge practices, or the establishment of prohibitions or more stringent limitations for toxic or conventional pollutants and/or sewage sludges. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance does not stay any permit condition.

### **Proposed Permit Issuance**

This proposed permit meets all statutory requirements for the department to authorize a wastewater discharge. The department proposes to issue this permit for a term of five (5) years.

## APPENDIX A – PUBLIC INVOLVEMENT INFORMATION

The department proposes to issue a permit to **Dickinson Rail Terminal**. The permit includes wastewater discharge limits and other conditions. This statement of basis describes the facility and the department's basis for requiring a permit.

The department will place a Public Notice of Draft on **August 12, 2020** in **The Dickinson Press** to inform the public and to invite comment on the proposed draft North Dakota Pollutant Discharge Elimination System permit and statement of basis.

The Notice –

- Tells where copies of the draft permit and statement of basis are available for public evaluation.
- Offers to provide assistance to accommodate special needs.
- Urges people to submit their comments before the end of the comment period.
- Informs the public that if there is significant interest, a public hearing will be scheduled.

You may obtain further information from the department by telephone, 701.328.5210 or by writing to the address listed below:

North Dakota Department of Environmental Quality  
Division of Water Quality  
918 East Divide Avenue, 4<sup>th</sup> Floor  
Bismarck, ND 58501

The primary author of this permit and statement of basis is Emily Joynt.

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## **APPENDIX B – DEFINITIONS**

### **DEFINITIONS Pretreatment Permit BP 2019.01.01**

1. “Act” means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended [33 U.S.C. 1251, et seq.].
2. “Approval authority” means the department.
3. “Best management practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 303.5(a)(1) and (b). Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
4. “Bypass” means the intentional diversion of wastestreams from any portion of an industrial user’s treatment facility.
5. “Categorical industrial user” means an industrial user that is subject to a categorical pretreatment standard or categorical standard.
6. “Categorical pretreatment standard” or “categorical standard” means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405 through 471.
7. “Control authority” means either:
  - a. The publicly owned treatment works, if the publicly owned treatment works which receives the indirect discharge administers an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08; or
  - b. The department, if the publicly owned treatment works which receives the indirect discharge does not administer an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08.
8. “Department” means the North Dakota Department of Environmental Quality, Division of Water Quality.
9. “Director” means the department.
10. “DMR” means discharge monitoring report.
11. “EPA” means the United States Environmental Protection Agency.

“Indirect discharge” means the introduction of pollutants into a publicly owned treatment works from any nondomestic source regulated under 307(b), (c), or (d) of the Federal Water Pollution Control Act.

12. "Industrial user" or "user" means a source of indirect discharge.
13. "Instantaneous" for monitoring requirements, means a single reading, observation, or measurement. If more than one sample is taken during any calendar day, each result obtained shall be considered.
14. "Interference" means an indirect discharge which, alone or in conjunction with any other indirect discharges, both:
  - a. Inhibits or disrupts the publicly owned treatment works processes or operations, or its sludge processes, use or disposal; and
  - b. Causes a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation or prevents sewage sludge use or disposal in compliance with federal or state law or statute.
15. "New source" means:
  - a. Any building, structure, facility or installation for which construction commenced after the publication of proposed pretreatment standards which will apply to such source after promulgation, from which there is or may be an indirect discharge, provided that:
    - (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
    - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the indirect discharge at an existing source; or
    - (3) The production or wastewater generating processes of the building, structure, facility, or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent factors, such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
  - b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs 2 and 3 of subdivision a, but otherwise alters, replaces or adds to existing process or production equipment.
  - c. Construction of a new source as defined under this subsection has commenced if the owner or operator has:
    - (1) Begun, or caused to begin, as part of a continuous onsite construction program:
      - (a) Any placement, assembly, or installation of facilities or equipment; or

- (b) Significant site preparation work which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation.
16. "Passthrough" means a discharge which exits the publicly owned treatment works into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation.
17. "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the publicly owned treatment works. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).
18. "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
19. "Pretreatment standards" means any regulation which applies to industrial users that contains pollutant discharge limits promulgated by the environmental protection agency in accordance with the Federal Water Pollution Control Act, including prohibitive discharge limits established pursuant to section 33.1-16-01.1-02.
20. "Publicly owned treatment works" or "POTW" means a treatment works as defined by section 212 of the Federal Water Pollution Control Act, which is owned by a state or municipality, including any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial wastes, as well as sewers, pipes, and other conveyances that convey wastewater to a publicly owned treatment works treatment plant. This term also means the municipality that has jurisdiction over the indirect discharges to and the discharges from the treatment works.
21. "Publicly owned treatment works treatment plant" means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.
22. "Severe property damage" means substantial physical damage to property, damage to

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.

23. "Significant industrial user" means:

- a. All industrial users subject to categorical pretreatment standards under sections 33.1-16-01-31 and 33.1-16-01.1-04;
- b. Any other industrial user that meets at least one of the following criteria:
  - (1) Discharges an average of twenty-five thousand gallons [94,635 liters] per day or more of process wastewater to the publicly owned treatment works, excluding sanitary wastewater, noncontact cooling water, and boiler blowdown wastewater;
  - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works treatment plant; or
  - (3) Is designated as a significant industrial user by the control authority on the basis that the user has a reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement.
- c. The control authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a nonsignificant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
  - (1) The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
  - (2) The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
  - (3) The industrial user never discharges any untreated concentrated wastewater.
- d. Upon a finding that an industrial user which meets the criteria of subdivision b has no reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement, the control authority may, at any time, determine that the industrial user is not a significant industrial user.

24. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. Upset does not include noncompliance to the extent caused by operational error, inadequate or improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.
25. "Water management division director" means the director of the water management division of the regional office of the United States environmental protection agency or this person's delegated representative.

## APPENDIX C – CALCULATIONS

City of Dickinson POTW Outfall 005 effluent data 01/01/2015-05/31/2020.  
Estimated daily effluent Dickinson Rail Terminal to City of Dickinson POTW = 0.002 MGD

DMR Period	Average Daily Flow (MGD)	Average Daily Flow with Dickinson Rail Terminal Estimated Influent (MGD)	Dickinson Rail Terminal Percent of Daily Flow
January 2015	2.04	2.042	0.116
February 2015	2	2.002	0.118
March 2015	2	2.002	0.118
April 2015	2	2.002	0.118
May 2015	2.02	2.022	0.117
June 2015	1.9	1.902	0.124
July 2015	1.97	1.972	0.120
August 2015	1.95	1.952	0.121
September 2015	1.9	1.902	0.124
October 2015	2	2.002	0.118
November 2015	1.795	1.797	0.131
December 2015	1.9	1.902	0.124
January 2016	1.439	1.441	0.164
February 2016	1.582	1.584	0.149
March 2016	1.883	1.885	0.125
April 2016	1.915	1.917	0.123
May 2016	1.914	1.916	0.123
June 2016	1.522	1.524	0.155
July 2016	1.408	1.410	0.168
August 2016	0.908	0.910	0.260
September 2016	1.571	1.573	0.150
October 2016	1.294	1.296	0.182
November 2016	1.165	1.167	0.202
December 2016	1.173	1.175	0.201
January 2017	1.26	1.262	0.187
February 2017	1.196	1.198	0.197
March 2017	1.425	1.427	0.166
April 2017	0.599	0.601	0.393
May 2017	0.096	0.098	2.402*
June 2017	0.977	0.979	0.241
July 2017	1.062	1.064	0.222
August 2017	1.145	1.147	0.206
September 2017	1.206	1.208	0.196
October 2017	1.605	1.607	0.147
November 2017	1.778	1.780	0.133
December 2017	1.364	1.366	0.173
January 2018	0.883	0.885	0.267
February 2018	1.534	1.536	0.154
March 2018	2.05	2.052	0.115
April 2018	1.981	1.983	0.119

## STATEMENT OF BASIS FOR NDPDES PERMIT NDP026981

DICKINSON RAIL TERMINAL

EXPIRATION DATE: SEPTEMBER 30, 2025

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May 2018	1.516	1.518	0.156
June 2018	1.31	1.312	0.180
July 2018	2.194	2.196	0.108
August 2018	0.572	0.574	0.411
September 2018	0.318	0.320	0.738
October 2018	0.251	0.253	0.933
November 2018	2.001	2.003	0.118
December 2018	1.917	1.919	0.123
January 2019	1.945	1.947	0.121
February 2019	1.931	1.933	0.122
March 2019	0.903	0.905	0.261
April 2019	2.016	2.018	0.117
May 2019	2.124	2.126	0.111
June 2019	2.022	2.024	0.117
July 2019	2.107	2.109	0.112
August 2019	1.9	1.902	0.124
September 2019	2.715	2.717	0.087
October 2019	2.561	2.563	0.092
November 2019	2.008	2.010	0.118
December 2019	2.169	2.171	0.109
January 2020	2.191	2.193	0.108
February 2020	2.26	2.262	0.104
March 2020	2.234	2.236	0.106
April 2020	2.154	2.156	0.110
May 2020	2.146	2.148	0.110

\*May 2017 effluent volume excludes &gt; 70 million gallons reused by local industry

**APPENDIX D – RESPONSE TO COMMENTS**

Comments received during the public comment period will be placed here.

Permit No: NDP026981  
Effective Date: October 1, 2020  
Expiration Date: September 30, 2025

AUTHORIZATION TO DISCHARGE UNDER THE  
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33-16-01 of the North Dakota Department of Environmental Quality rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code,

Dickinson Rail Terminal

is authorized to discharge wastewater from its rail terminal facility in Dickinson, North Dakota to the City of Dickinson's Publicly Owned Treatment Works provided all of the conditions of this permit are met.

This permit and the authorization to discharge shall expire at midnight,  
September 30, 2025

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

\_\_\_\_\_  
Karl H. Rockeman, P.E.  
Director  
Division of Water Quality

BP 2019.05.29

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**DEFINITIONS Pretreatment Permit BP 2019.01.01**

1. "Act" means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended [33 U.S.C. 1251, et seq.].
2. "Approval authority" means the department.
3. "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 303.5(a)(1) and (b). Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
4. "Bypass" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.
5. "Categorical industrial user" means an industrial user that is subject to a categorical pretreatment standard or categorical standard.
6. "Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by the environmental protection agency in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405 through 471.
7. "Control authority" means either:
  - a. The publicly owned treatment works, if the publicly owned treatment works which receives the indirect discharge administers an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08; or
  - b. The department, if the publicly owned treatment works which receives the indirect discharge does not administer an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08.
8. "Department" means the North Dakota Department of Environmental Quality, Division of Water Quality.
9. "Director" means the department.
10. "DMR" means discharge monitoring report.
11. "EPA" means the United States Environmental Protection Agency.
12. "Indirect discharge" means the introduction of pollutants into a publicly owned treatment works from any nondomestic source regulated under 307(b), (c), or (d) of the Federal Water Pollution Control Act.
13. "Industrial user" or "user" means a source of indirect discharge.

14. "Instantaneous" for monitoring requirements, means a single reading, observation, or measurement. If more than one sample is taken during any calendar day, each result obtained shall be considered.
15. "Interference" means an indirect discharge which, alone or in conjunction with any other indirect discharges, both:
  - a. Inhibits or disrupts the publicly owned treatment works processes or operations, or its sludge processes, use or disposal; and
  - b. Causes a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation or prevents sewage sludge use or disposal in compliance with federal or state law or statute.
16. "New source" means:
  - a. Any building, structure, facility or installation for which construction commenced after the publication of proposed pretreatment standards which will apply to such source after promulgation, from which there is or may be an indirect discharge, provided that:
    - (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
    - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the indirect discharge at an existing source; or
    - (3) The production or wastewater generating processes of the building, structure, facility, or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent factors, such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
  - b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs 2 and 3 of subdivision a, but otherwise alters, replaces or adds to existing process or production equipment.
  - c. Construction of a new source as defined under this subsection has commenced if the owner or operator has:
    - (1) Begun, or caused to begin, as part of a continuous onsite construction program:
      - (a) Any placement, assembly, or installation of facilities or equipment; or
      - (b) Significant site preparation work which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
    - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without

substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation.

17. "Passthrough" means a discharge which exits the publicly owned treatment works into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation.
18. "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the publicly owned treatment works. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).
19. "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
20. "Pretreatment standards" means any regulation which applies to industrial users that contains pollutant discharge limits promulgated by the environmental protection agency in accordance with the Federal Water Pollution Control Act, including prohibitive discharge limits established pursuant to section 33.1-16-01.1-02.
21. "Publicly owned treatment works" or "POTW" means a treatment works as defined by section 212 of the Federal Water Pollution Control Act, which is owned by a state or municipality, including any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial wastes, as well as sewers, pipes, and other conveyances that convey wastewater to a publicly owned treatment works treatment plant. This term also means the municipality that has jurisdiction over the indirect discharges to and the discharges from the treatment works.
22. "Publicly owned treatment works treatment plant" means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.
23. "Severe property damage" means substantial physical damage to property, damage to 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.
24. "Significant industrial user" means:
  - a. All industrial users subject to categorical pretreatment standards under sections 33.1-16-01-31 and 33.1-16-01.1-04;

- b. Any other industrial user that meets at least one of the following criteria:
    - (1) Discharges an average of twenty-five thousand gallons [94,635 liters] per day or more of process wastewater to the publicly owned treatment works, excluding sanitary wastewater, noncontact cooling water, and boiler blowdown wastewater;
    - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works treatment plant; or
    - (3) Is designated as a significant industrial user by the control authority on the basis that the user has a reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement.
  - c. The control authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a nonsignificant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
    - (1) The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
    - (2) The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
    - (3) The industrial user never discharges any untreated concentrated wastewater.
  - d. Upon a finding that an industrial user which meets the criteria of subdivision b has no reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement, the control authority may, at any time, determine that the industrial user is not a significant industrial user.
25. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. Upset does not include noncompliance to the extent caused by operational error, inadequate or improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.
26. "Water management division director" means the director of the water management division of the regional office of the United States environmental protection agency or this person's delegated representative.

## OUTFALL DESCRIPTION

<b>Outfall 001. Internal. Active</b>			
Latitude: 46.859	Longitude: -102.891	County: Stark	
Township: 139 N	Range: 79 W	Section: 14	QQ: B
Description: The outfall is a tie-in point connecting the existing sewer line of the adjacent refinery and city sanitary utility line, downstream of all refinery monitoring or sampling points.			

## PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
001	Discharge Monitoring Report	Semiannually	January 1, 2021
001	Spill and Slug Prevention, Control, and Countermeasure Plan (SPCCP) <sup>1</sup>	1/permit cycle	October 1, 2020
Application Renewal	NDPDES Application Renewal	1/permit cycle	March 30, 2025
1. Conditional: If the permittee stores chemicals with the potential to cause water pollution if unintentionally released, the department requires the permittee to develop and submit a spill and slug discharge prevention, control, and countermeasure plan.			

## SPECIAL CONDITIONS

The permittee is prohibited from diluting its effluent as a partial or complete substitute for adequate treatment to achieve compliance with permit limitations.

The permittee must develop a Spill and Slug Prevention, Control, and Countermeasure Plan (SPCCP) representing best management practices to prevent release of pollutants to the POTW and/or waters of the state and minimizing damages if a sludge discharge or spill occurs.

## I. LIMITATIONS AND MONITORING REQUIREMENTS

### A. Discharge Authorization

During the effective period of this permit, the permittee is authorized to discharge pollutants from Outfall 001 as specified to the **City of Dickinson's Publicly Owned Treatment Works (POTW)**.

This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in this permit application process.

### B. Effluent Limitations and Monitoring

The permittee must limit and monitor all discharges as specified below:

**Table 1 – Effluent Limitations and Monitoring Requirements Outfall 001**

Table 1 – Effluent Limitations and Monitoring Requirements Calford 001				
	Effluent Limitations		Monitoring Requirements	
Parameter	Daily Maximum	Monthly Average	Sample type	Sample Frequency
Total Facility Flow, MGD	*	Report Monthly Total	Calculated	Monthly
Process Flow, gal/day	Report Max. Daily Value	Report Monthly Average	Recorder	Daily
pH a/	Between 5.0 to 12.5 S.U. at all times		Instantaneous	Weekly
Temperature	< 40 °C (104 °F) at all times		Instantaneous	Continuous
* This item for the stated parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving POTW.				
a/ The pH, an instantaneous limitation, shall be between 5.0 S.U. and 12.5 S.U. Any single analysis and or measurements beyond this limitation shall be considered a violation of the conditions of this permit.				

## II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2019.05.29

### A. Representative Sampling (Routine and Non-Routine Discharges)

All samples and measurements taken shall be representative of the monitored discharge.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters limited under **Part I Effluent Limitations and Monitoring** requirements of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with **B. Test Procedures**. The permittee must report all additional monitoring in accordance with **D. Additional Monitoring**.

### B. Test Procedures

The collection and transportation of all samples shall conform with EPA preservation techniques and holding times found in 40 CFR 136. All laboratory tests shall be performed by a North Dakota certified laboratory in conformance with test procedures pursuant to 40 CFR 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5. The method of determining the total amount of water discharged shall provide results within 10 percent of the actual amount.

### C. Recording of Results

Records of monitoring information shall include:

1. the date, exact place and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements;
3. the name of the laboratory;
4. the date(s) and time(s) analyses were performed;
5. the name(s) of the individual(s) who performed the analyses;
6. the analytical techniques or methods used; and
7. the results of such analyses.

### D. Additional Monitoring

If the discharge is monitored more frequently than this permit requires, all additional results, if in compliance with **B. Test Procedures**, shall be included in the summary on the Discharge Monitoring Report.

### E. Reporting of Monitoring Results

1. Monitoring results shall be summarized and reported to the department using Discharge Monitoring Reports (DMRs). If no discharge occurs during a reporting period, "No Discharge" shall be reported. The permittee must submit DMRs electronically using the electronic information reporting system unless requirements in subsection 3 are met.
2. Prior to December 21, 2020, the permittee may elect to electronically submit the following compliance monitoring data and reports instead of mailing paper forms. Beginning December 21, 2020, the permittee must report the following using the electronic reporting system:
  - i. General permit reports [e.g., notices of intent (NOI); notices of termination (NOT); no exposure certifications (NOE)];
  - ii. Municipal separate storm sewer system program reports;
  - iii. Pretreatment program reports;
  - iv. Sewer overflow/bypass event reports; and
  - v. Clean Water Act 316(b) annual reports.
3. The permittee may seek a waiver from electronic reporting. To obtain a waiver, the permittee must complete and submit an Application for Temporary Electronic Reporting Waiver form (SFN 60992) to the department. The department will have 120 days to approve or deny the waiver request. Once the waiver is approved, the permittee may submit paper versions of monitoring data and reports to the department.

All reports must be postmarked by the last day of the month following the end of each reporting period. All original documents and reports required herein shall be signed and submitted to the department at the following address:

ND Department of Environmental Quality  
Division of Water Quality  
918 East Divide Avenue  
Bismarck ND 58501-1947

#### **F. Records Retention**

All records and information (including calibration and maintenance) required by this permit shall be kept for at least three years or longer if requested by the department or EPA.

### III. COMPLIANCE RESPONSIBILITIES

#### A. 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.

#### B. Proper Operation and Maintenance

The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. If necessary to achieve compliance with the conditions of this permit, this shall include the operation and maintenance of backup or auxiliary systems.

#### C. Planned Changes

The department shall be given advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance. Any anticipated facility expansions, production increase, or process modifications which might result in new, different, or increased discharges of pollutants shall be reported to the department as soon as possible. Changes which may result in a facility being designated a "new source" as determined in 40 CFR 122.29(b) shall also be reported.

#### D. Duty to Provide Information

The permittee shall furnish to the department, within a reasonable time, any information which the department 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 department, upon request, copies of records required to be kept by this permit. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.

#### E. Signatory Requirements

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

All permit applications shall be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official.

All reports required by the permit and other information requested by the department 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:

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

The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

If an authorization under E. Signatory Requirements is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

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."

**F. Twenty-four Hour Notice of Noncompliance Reporting**

1. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The following occurrences of noncompliance shall be included in the oral report to the department at 701.328.5210:
  - a. Any lagoon cell overflow or any unanticipated bypass which exceeds any effluent limitation in the permit under G. Bypass of Treatment Facilities;
  - b. Any upset which exceeds any effluent limitation in the permit under H. Upset Conditions; or
  - c. Violation of any daily maximum effluent or instantaneous discharge limitation for any of the pollutants listed in the permit.
2. A written submission shall also be provided within five days of the time that the permittee became aware of the circumstances. The written submission shall contain:
  - a. A description of the noncompliance and its cause;
  - b. The period of noncompliance, including exact dates and times;
  - c. The estimated time noncompliance is expected to continue if it has not been corrected; and
  - d. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
3. If monitoring performed by the permittee indicates noncompliance, the permittee must repeat the sampling and analysis for the pollutant in violation and report the results of the resampling within 30 days of becoming aware of the original violation to the department as outlined in Section II(E) of this permit. The resampling is required by 40 CFR 403.12(g)(2).

Reports shall be submitted to the address in **Part II.E . Reporting of Monitoring Results**. The department may waive the written report on a case by case basis if the oral report has been received within 24 hours by the department at 701.328.5210 as identified above.

All other instances of noncompliance shall be reported no later than at the time of the next Discharge Monitoring Report submittal. The report shall include the four items listed in this subsection.

#### **G. Bypass of Treatment Facilities**

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to any of the following provisions in this section.
2. Bypass exceeding limitations-notification requirements:
  - a. Notice of Potential Problems, including slug loading. The permittee shall notify the POTW and the department immediately of all discharges that could cause problems to the POTW, including any slug loadings as defined in 40 CFR 403.5(b).
  - b. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten (10) days before the date of bypass.
  - c. Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required under F. Twenty-four Hour Notice of Noncompliance Reporting.
3. Prohibition of Bypass. Bypass is prohibited, and the department 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 under the 1. Anticipated Bypass subsection of this section.

The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three (3) conditions listed above.

#### **H. Upset Conditions**

An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph 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.

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 the permittee can identify its cause(s);
2. The permitted facility was, at the time being, properly operated;
3. The permittee submitted notice of the upset as required under F. Twenty-four Hour Notice of Noncompliance Reporting and
4. The permittee complied with any remedial measures required under I. Duty to Mitigate.

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

**I. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The permittee, at the department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.

**J. Removed Materials**

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the state. The permit issuing authority shall be contacted prior to the disposal of any sewage sludges. At that time, concentration limitations and/or self-monitoring requirements may be established.

**K. Duty to Reapply**

Any request to have this permit renewed should be made six months prior to its expiration date.

#### **IV. GENERAL PROVISIONS**

##### **A. Inspection and Entry**

The permittee shall allow department and EPA representatives, upon the presentation of credentials if requested, to enter the permittee's premises to inspect the wastewater treatment facilities and monitoring equipment, to sample any discharges, and to have access to and copy any records required to be kept by this permit.

##### **B. Availability of Reports**

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

##### **C. Transfers**

This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent department approval. The current permit holder must provide a copy of the existing permit to the new controller, operator, or owner of the existence of this permit and also notify the department of the possible change.

##### **D. New Limitations or Prohibitions**

The permittee shall comply with any effluent standards or prohibitions established under Section 306(a), Section 307(a), or Section 405 of the Act for any pollutant (toxic or conventional) present in the discharge or removed substances within the time identified in the regulations even if the permit has not yet been modified to incorporate the requirements.

##### **E. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. This includes the establishment of limitations or prohibitions based on changes to Water Quality Standards, the development and approval of waste load allocation plans, the development or revision to water quality management plans, changes in sewage sludge practices, or the establishment of prohibitions or more stringent limitations for toxic or conventional pollutants and/or sewage sludges. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

##### **F. Need to Halt or Reduce Activity Not a Defense**

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

##### **G. State Laws**

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

##### **H. 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.

##### **I. Property Rights**

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

**J. 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.

DRAFT