

**North Dakota Department of Health Public Notice**  
**Reissue of an NDPDES Permit**

Public Notice Date: 2/13/2019

Public Notice Number: ND-2019-005

**Purpose of Public Notice**

The Department intends to reissue 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: 9/10/2018

Application Number: ND0025836

Applicant Name: Hess Tioga Gas Plant LLC

Mailing Address: 10340 68th St. NW, Tioga, ND 58852

Telephone Number: 701.664.6200

Proposed Permit Expiration Date: 3/31/2024

**Facility Description**

The reapplication is for a storm water runoff collection system located in the NE1/4, Section 26, Township 157 N, Range 95 W. All discharges would consist of facility stormwater runoff, and would be to an unnamed tributary of Paulsen Creek.

**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 Health, Div of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 or by calling 701.328.5210.

All comments received by March 14, 2019 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.

**FACT SHEET FOR NDPDES PERMIT  
ND-0025836**

**PERMIT REISSUANCE**

**HESS TIOGA GAS PLANT LLC**

**DATE OF THIS FACT SHEET – JANUARY / FEBRUARY 2019**

**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) has oversight authority. In 1975, the State of North Dakota was delegated primacy of the NPDES program by EPA. The North Dakota Department of Health (department) has been designated the state water pollution control agency for all purposes of the Federal Water Pollution Control Act, 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 the NDAC 33-16 (North Dakota Administrative Code) which was promulgated pursuant to NDCC chapter 61-28 (North Dakota Century Code). The department uses North Dakota Pollutant Discharge Elimination System (NDPDES) as its permitting title.

The following rules or regulations apply to NDPDES permits:

- Procedures the Department follows for issuing NDPDES permits (NDAC chapter 33-16-01),
- Standards of Quality for Waters of the State (NDAC chapter 33-16-02.1).

These rules require any treatment facility operator to obtain an NDPDES permit before discharging wastewater to state waters. They also define the basis for limits on each discharge and for other requirements imposed by the permit.

According to the North Dakota Administrative Code (NDAC) section 33-16-01-08, the department must prepare a draft permit and accompanying fact sheet, 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 chapter 33-16-01-07). For more information regarding preparing and submitting comments about the fact sheet 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**

Applicant:	Hess Tioga Gas Plant LLC
Facility Name and Address:	Hess Tioga Gas Plant LLC 10384 68 <sup>th</sup> St. NW Tioga, ND 58852
Permit Number:	ND-0025836
Permit Type:	Minor, Non-POTW, Reissuance
Type of Treatment:	Sedimentation Ponds
SIC Code:	1311 - Natural Gas Production
Discharge Location:	T157N, R95W, Section 26, NE1/4 Latitude and Longitude of discharge locations: DP001: 48.395703, - 102.913258 DP002: 48.394919, - 102.916236 DP003: 48.398022, - 102.910764
Hydrologic Code:	10110101 - Lake Sakakawea

Figure 1 – Aerial Photograph provided by Hess Tioga Gas Plant LLC, Tioga, North Dakota, 2013



## FACILITY DESCRIPTION

Hess Tioga Gas Plant is a natural gas processing plant that includes a sulfur recovery unit. The plant processes raw natural gas into conditioned natural gas, propane, butane, natural gasoline, and sulfur. The plant is located south of 68<sup>th</sup> Street Northwest, east of Tioga, North Dakota.

Discharges from the facility consists of stormwater runoff from the plant site, including processing, storage and transportation facilities. The stormwater runoff is collected in three separate sedimentation ponds (Northeast, East, and West) prior to being discharged. The plant and ponds are located in the NE1/4, Section 26, T157N, R95W in Williams county. Any discharge is to an unnamed tributary of Paulsen Creek, a Class III stream. Existing Class 2 injection wells permitted by the North Dakota Industrial Commission (T5-082002) are used for the disposal of plant wastewater.

### Discharge Outfalls

The facility currently has three discharge points. Outfall 001 is for the east sedimentation pond which has an approximate operating capacity of 1.72 million gallons. The discharge structure consists of a 12-inch pipe located in the southeast corner of the pond. Outfall 002 is for the west sedimentation pond which has an approximate operating capacity of 0.45 million gallons. The discharge structure consists of a gated 12-inch pipe located in the southwest corner of the pond.

Construction of the third sedimentation pond and associated Outfall 003 was completed in 2013. This point was added to the previous permit as Outfall 003. Outfall 003 is for the northeast sedimentation pond which has an approximate operating capacity of 2.90 million gallons. The discharge structure consists of a 12-inch pipe located in the southeast corner of the pond.

The ponds are designed to collect runoff expected from a 100-year, 1-hour rain event (2.75 inches). This rain event is based on the U.S. Department of Commerce, Weather Bureau Technical Paper 40, *Rainfall Frequency Atlas of the United States*, released in 1961. Stormwater is to be collected in the ponds, and then discharged on an as-needed intermittent basis. The facility discharges to an unnamed tributary of Paulsen Creek, a class III stream. Paulsen Creek is not listed as impaired in the department's 2016, section 303(d) list of impaired bodies of water and does not have a total daily maximum load (TMDL) allocation.

Listed below are the pond capacities of the stormwater runoff and sedimentation system:

Table 2: Summary of the stormwater treatment components.		
	Treatment Structure	Cell Operating Capacity
1	East Sedimentation Pond	1.72 million gallons
2	West Sedimentation Pond	0.45 million gallons
3	Northeast Sedimentation Pond	2.90 million gallons

**Outfall Description**

<b>Outfall 001. Active. East Sedimentation Pond</b>			
Latitude: 48.395703	Longitude: -102.913258	County: Williams	
Township: 157 North	Range: 95 West	Section: 26	QQ: AC
Receiving Stream: Unnamed tributary of Paulsen Creek		Classification: Class III Stream	
Outfall Description: The discharge structure consists of a 12-inch pipe located in the southeast corner of the pond.			

<b>Outfall 002. Active. West Sedimentation Pond</b>			
Latitude: 48.394919	Longitude: -102.916236	County: Williams	
Township: 157 North	Range: 95 West	Section: 26	QQ: AC
Receiving Stream: Unnamed tributary of Paulsen Creek		Classification: Class III Stream	
Outfall Description: The discharge structure consists of a gated 12-inch pipe located in the southwest corner of the pond.			

<b>Outfall 003. Active. Northeast Sedimentation Pond</b>			
Latitude: 48.398022	Longitude: -102.910764	County: Williams	
Township: 157 North	Range: 95 West	Section: 26	QQ: AC
Receiving Stream: Unnamed tributary of Paulsen Creek		Classification: Class III Stream	
Outfall Description: The discharge structure consists of a 12 inch pipe located in the southeast corner of the pond.			

**PERMIT STATUS**

The department issued the current permit for this facility on April 1, 2014. The permit is scheduled to expire at midnight on March 31, 2019. The current permit includes monitoring requirements for total suspended solids (TSS), chemical oxygen demand (COD), pH, total sulfate, and oil and grease.

**SUMMARY OF COMPLIANCE WITH PREVIOUS PERMIT ISSUED**

Department staff conducted a non-sampling compliance inspection during the current permit period on February 6, 2019. The department's assessment of compliance is based on review of the facility's Discharge Monitoring Reports (DMRs) and inspections conducted by department staff. The facility's SWPPP was evaluated for content, adherence to the current permit conditions, and accuracy. The SWPPP is currently being revised to update the individuals responsible for implementing, maintaining, and revising the SWPPP (Section II.Special Conditions.1.c of the permit).

**Past Discharge Data**

The department reviewed the facility's discharge history from the previous permit period.

**Table 3: Discharge Summary by Year**

Year	Total Days of Facility Discharge	Total Drain (Mgal)	Number of Exceedances		
			TSS Monthly Avg	TSS Daily Max	pH
2014	4	7.850	0	0	0
2015	8	11.466	3 *†	3 *†	0
2016	15	15.694	0	0	0
2017	10	6.573	0	0	0
2018	12	12.250	1 #	1 #	0

†2015 - One exceedance sampled during rain storm event causing DP 002 west pond overflow

\*2015 - Two exceedances occurred at DP 001 east pond

#2018 - One exceedance sampled during rain storm event causing DP 002 west pond overflow

**Table 4: DMR Summary - Outfall 001 East Pond**

Year	Days	Drain (Mgal)	O&G (mg/l)		COD (mg/l)		pH		Total Sulfate (mg/l)		TSS (mg/l)	
			max	avg	max	min	max	avg	max	monthly avg	daily max	
2014	2	3.310	0	42.3	65.4	6.5	7.2	729	736	8.5	10	
2015	2	3.775	2.2	16.5	18.9	7.65	8.23	448	594	30	55	
2016	5	6.001	0	16.9	43.4	8.01	8.83	470	507	3	9	
2017	4	2.341	0	16.1	22.2	7.54	8.17	375	609	2	2	
2018	4	4.699	0	13.2	18.9	6.78	8.42	633	742	29	6	

**Table 5: DMR Summary - Outfall 002 West Pond**

Year	Days	Drain (Mgal)	O&G (mg/l)		COD (mg/l)		pH		Total Sulfate (mg/l)		TSS (mg/l)	
			max	avg	max	min	max	avg	max	monthly avg	daily max	
2014	0	0	0	No/D	No/D	No/D	No/D	No/D	No/D	No/D	No/D	
2015	3	1.888	0	15.3	21.7	7.61	8.98	126	432	36	121	
2016	5	3.389	0	11.0	16.0	7.67	8.18	345	489	7	18	
2017	3	1.207	0	11.0	12.1	7.42	7.58	116	135	10	15	
2018	2	1.320	0	13.4	20.4	7.46	8.64	384	452	40	96	

No/D - there were no discharges

**Table 5: DMR Summary - DP 003 Northeast Pond**

Year	Days	Drain (Mgal)	O&G (mg/l)	COD (mg/l)		pH		Total Sulfate (mg/l)		TSS (mg/l)	
			max	avg	max	min	max	avg	max	monthly avg	daily max
2014	2	4.540	0	20.8	22.4	6.7	7.8	677	721	8.5	11
2015	3	5.803	0	11.1	18.9	7.78	8.66	320	560	6	8
2016	5	6.304	0	12.9	15.2	8.28	9.00	462	612	3	4
2017	3	3.025	0	16.3	21.2	7.54	8.20	637	742	6	29
2018	6	6.231	0	17.8	22.0	7.55	8.44	352	409	10	11

Since April 1, 2014, discharge records for Outfall 001 have shown that the system met permit limitations, except for two exceedances for TSS which occurred in 2015. The highest total suspended solids (TSS) was 55 mg/L and averaged 14.5 mg/L. Chemical oxygen demand (COD) has averaged 21 mg/L with a maximum reported result of 65.4 mg/L, while pH remained between 6.5 and 8.83 s.u. There has been no visual sheen or floating oil visible in the collected stormwater.

Since April 1, 2014, discharge records for Outfall 002 reveal two TSS exceedances occurred; one each in 2015 and 2018. The 2015 exceedance was due to a sample collected during a large storm event on September 5, 2015, shortly before the west pond overflowed. The 2018 exceedance was due to a discharge sample collected during a large storm event and overflow on June 1, 2018. Both exceedances were granted a waiver from the department as the storm precipitation amounts exceeded the 100-year, 1-hour rain event (2.75 inches).

Outfall 002 had a maximum TSS of 121 mg/L with an average of 23 mg/L. COD has averaged 12.6 mg/L with a maximum of 21.7 mg/L, while pH remained between 7.42 and 8.98 s.u. There has been no visual sheen or floating oil visible in the collected stormwater.

Since April 1, 2014, from Outfall 003. The maximum TSS was 11 mg/L with an average of 6 mg/L. COD has averaged 15.3 mg/L with a maximum of 22.0 mg/L, while pH remained between 6.7 and 9.0 s.u. There has been no visual sheen or floating oil visible in the collected stormwater.

During the previous permit period, Hess annually discharged an average of 10.7666 million gallons of collected stormwater from the sedimentation ponds. An increase in the amount of stormwater discharged annually was expected as the result of the 2012-2013 facility expansion. The expansion included an addition of the northeast sedimentation pond (containing Outfall 003) to provide treatment for stormwater runoff from the additional facility's expansion area.



## PROPOSED PERMIT LIMITS

### EFFLUENT LIMITATIONS

The effluent limitations in the current permit were based on best professional judgment (BPJ), best management practices (BMPs), and the Standards of Quality for Waters of the State (Chapter 33-16-02.1). The limitations for total suspended solids, oil and grease, and pH are similar to the requirements applied to coal mining facilities (40 CFR Part 434) where sedimentation ponds are widely used to treat runoff. The department's best professional judgment is that the ponds at this facility serve a similar purpose, and are capable of achieving equivalent discharge quality as those in use at coal mines in North Dakota. BMPs have been specified to ensure that the ponds and other structures at the site are operated efficiently. In the event of any spill, the permittee would be responsible for reporting to the appropriate agencies and the department.

In response to Phase 1 stormwater permitting rules, the facility was required to monitor additional parameters for diagnostic purposes in 1993 and 1994. The permittee conducted testing for nitrates, total Kjeldahl nitrogen (TKN), and total phosphorus during those years in order to fulfill the stormwater requirements. The concentrations found for TKN and total phosphorus were below the detection limit on all tests. Nitrates were detected on three of the six samples, with an average detectable concentration of 2.53 mg/L. Based on the test results, the department did not propose routine monitoring for the nutrients.

The department previously reviewed discharge monitoring results submitted during the previous permit period (2009 - 2014). Five of nineteen sulfate results exceeded the WQS for Class III streams (750 mg/l) during this permit period. Because of these exceedances, the department added a sulfate limitation to the current permit. Based on a review of discharge monitoring results submitted during the current permit period, there were no sulfate sample results that exceeded water quality standards for a Class III stream. A high of 742 mg/l sulfates was reported in two DMR periods in 2018. The department will leave the sulfate limitation in place for the proposed permit.

The department may waive the limitations for Total Suspended Solids for overflows caused by single or series of precipitation or snowmelt events greater than 2.75 inches after reviewing all information submitted in response to the Notice of Noncompliance Reporting conditions (Part IV.F.1(c)). To qualify for such a waiver, the facility must be designed, constructed, operated, and maintained to contain the runoff from a 100-year, 1-hour storm event (2.75 inches). In addition, any required pond dewatering must have been accomplished within 10 days of the last precipitation event or, in the case of snowmelt, prior to freeze-up. Additional time is allowable when dewatering is delayed due to activities or conditions downstream of the facility. Precipitation shall be monitored by gauge, and recorded daily by the permittee. If the permittee elects, the results from the nearest National Weather Station may be used. The permittee has the burden of proof that these conditions are met.

The proposed effluent limitations shall take effect once the permit becomes active. The effluent limitations and the basis for the limitations are provided in the Table 6. Prior to any discharge, the permittee must collect and analyze the following parameters.

**Table 6: Effluent Limitations and Monitoring Requirements for 001A, 002A, 003A**

Discharge Limitations			
Effluent Parameter	Monthly Average	Daily Maximum	Basis <sup>e</sup>
Total Suspended Solids (mg/l) <sup>a</sup>	35.0	70.0	40 CFR 434.42
Chemical Oxygen Demand (mg/l)	*	*	BPJ
pH (s.u.) <sup>b</sup>	between 6.0 and 9.0		40 CFR 434.42; WQS
Oil & Grease (mg/l) <sup>c</sup>	*	10.0	WQS
Oil & Grease (Visual) <sup>c</sup>	*	*	BPJ
Sulfate, Total (mg/l) <sup>d</sup>	750	*	WQS
<b>Notes:</b>			
<p>a. The department may waive the limitations for Total Suspended Solids for overflows caused by a single event or series of precipitation events of greater than 2.75 inches after reviewing all information submitted in response to the Notice of Noncompliance Reporting conditions of the permit. The limitation may also be waived for snowmelt events on a case-by-case basis.</p> <p>To qualify for such a waiver, the facility must be designed, constructed, operated, and maintained to contain the runoff from a 100-year, 1-hour storm event (2.75 inches). In addition, any required pond dewatering must have been accomplished within 10 days of the last precipitation event when practical or, in the case of snowmelt, prior to freeze-up. Additional time is allowable when dewatering is delayed due to activities or conditions downstream of the facility such as agricultural activities, landowner accessibility, drainage channel stability or capacity. The permittee has the burden of proof that these conditions are met.</p> <p>Precipitation shall be monitored by gauge and recorded daily by the permittee. If the permittee elects, the results from the nearest National Weather Station may be used.</p>			
<p>b. The pH, an instantaneous limitation, shall be between 6.0 standard units and 9.0 standard units. Any single analysis and or measurement beyond this limitation shall be considered a violation of the conditions of this permit.</p>			
<p>c. There shall be no floating oil or visible sheen present in the discharge. If floating oil or a visible sheen is detected in the discharge, the department shall be contacted and a grab sample be analyzed to ensure compliance with the concentration limitation. Any single analysis and/or measurement beyond this limitation shall be considered a violation of the conditions of this permit.</p>			

<p>d.</p> <p>The total sulfate limitation is based on the WQS.</p>
<p>e.</p> <p>The basis of the effluent limitations is given below:</p> <p>"Previous Permit" refers to limitations in the previous permit. The NPDES regulations <b>40 CFR Part 122.44(1)(1) Reissued permits</b> require that when a permit is renewed or reissued, interim limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards, or conditions in the previous permit unless the circumstances on which the previous permit was issued have materially and substantially changed since the previous permit was issued and would constitute cause for permit modification or revocation and reissuance under <b>40 CFR Part 122.62</b>.</p> <p>"BPJ" refers to limitations developed by the department using best professional judgment in accordance with 40 CFR Part 125.3(d).</p> <p>"WQS" refers to effluent limitations based on the State of North Dakota's "Standards of Quality for Waters of the State," NDAC Chapter 33-16-02.1.</p>
<p>* This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.</p>
<p>There shall be no discharge of floating solids or visible foam in other than in trace amounts. There shall be no unsightly or deleterious floating materials present in the discharge.</p>
<p>There shall be no discharge of any waters other than stormwater runoff. Sedimentation ponds, spill containment structures, and diversions shall be inspected and maintained to preserve their integrity and efficient operation. Any pesticides shall be handled and applied according to the manufacturers' instructions. A record of pesticide application at the plant shall be maintained on-site. Additional monitoring may be required, if needed, to evaluate the effects the discharge may have on the receiving stream.</p>
<p>Samples shall be taken prior to the discharge water leaving company property or mixing with receiving waters.</p>
<p>Dates of discharge, frequency of analysis, number of exceedances shall be included on the Discharge Monitoring Reports (DMR).</p>
<p>The department may specify additional discharge conditions or restrictions at any time to maintain water quality standards.</p>

## SELF-MONITORING REQUIREMENTS

Samples must be taken prior to the discharge water leaving company property or entering any receiving stream.

**Table 7: Self-Monitoring Requirements**

Effluent Parameter	Frequency	Sample Type <sup>a</sup>
Total Dissolved Solids (TSS)	Weekly	Grab
Chemical Oxygen Demand (COD)	Weekly	Grab
pH	Weekly	Instantaneous
Oil & Grease Visual	Daily	Visual
Oil & Grease	Conditional - Weekly	Grab
Sulfate, Total	Weekly	Grab
Total Days Discharging	Monthly	Calculated
Drain, Total	Quarterly	Calculated
Flow, Total <sup>b</sup>	Daily	Calculated
a. Refer to Appendix B for definitions.		
b. The permittee shall maintain the capability to measure the instantaneous flow rate, daily.		

## SURFACE WATER QUALITY-BASED EFFLUENT LIMITS

The North Dakota State Water Quality Standards (NDAC Chapter 33-16-02.1) are designed to protect existing water quality and preserve the beneficial uses of North Dakota's surface waters. Wastewater discharge permits must include conditions that ensure the discharge will meet the surface water quality standards. Water quality-based effluent limits may be based on an individual waste load allocation or on a waste load allocation developed during a basin wide total maximum daily load (TMDL) study. TMDLs result from a scientific study of the water body and are developed in order to reduce pollution from all sources.

Stormwater from the facility is to be collected in three sedimentation ponds, and then discharged on an as-needed intermittent basis. The facility discharges to an unnamed tributary of Paulsen Creek, a class III stream. Paulsen Creek is not listed as impaired in the department's 2016, section 303(d) list of impaired bodies of water and does not have a total daily maximum load (TMDL) allocation..

The facility injects all processed wastewater to a regulated Class II injection well. The Oil and Gas Division of the North Dakota Industrial Commission regulates Class II injection wells located in North Dakota.

## Numerical Criteria for the Protection of Aquatic Life and Recreation

Numerical water quality criteria are listed in the water quality standards for surface waters (NDAC Chapter 33-16-02.1). They specify the maximum levels of pollutants allowed in receiving water to protect aquatic life and recreation in and on the water. The Department uses numerical criteria along with chemical and physical data for the wastewater and receiving water to derive

the effluent limits in the discharge permit. When surface water quality-based limits are more stringent or potentially more stringent than technology-based limits, the discharge must meet the water quality-based limits.

### **Numerical Criteria for the Protection of Human Health**

The U.S. EPA has published numeric water quality criteria for the protection of human health that are applicable to dischargers. These criteria are designed to protect humans from exposure to pollutants linked to cancer and other diseases, based on consuming fish and shellfish and drinking contaminated surface waters. The Water Quality Standards also include radionuclide criteria to protect humans from the effects of radioactive substances.

### **Narrative Criteria**

Narrative water quality criteria (NDAC Chapter 33-16-02.1-08) limit concentrations of pollutants from exceeding applicable standards of the receiving waters. The Department adopted a narrative biological goal solely to provide an additional assessment method that can be used to identify impaired surface waters.

### **Antidegradation**

The purpose of North Dakota's Antidegradation Policy (NDAC Chapter 33-16-02(Appendix IV)) is to:

- Provide all waters of the state one of three levels of antidegradation protection.
- Determine whether authorizing the proposed regulated activity is consistent with antidegradation requirements.

The Department's fact sheet demonstrates that the existing and designated uses of the receiving water will be protected under the conditions of the proposed permit.

### **Mixing Zones**

The Department's WQS contain a Mixing Zone and Dilution Policy and Implementation Procedure, NDAC Chapter 33-16-02.1 (Appendix III). This policy addresses how mixing and dilution of point source discharges with receiving waters will be addressed in developing chemical-specific and whole effluent toxicity discharge limitations for point source discharges. Depending upon site-specific mixing patterns and environmental concerns, some pollutants/criteria may be allowed a mixing zone or dilution while others may not. In all cases, mixing zone and dilution allowances shall be limited, as necessary, to protect the integrity of the receiving water's ecosystem and designated uses.

## **EVALUATION OF SURFACE WATER QUALITY-BASED EFFLUENT LIMITS FOR NUMERIC CRITERIA**

### **pH**

The WQS state that discharges to Class II and Class III streams shall have an instantaneous pH limitation between 6.0 (s.u) and 9.0 (s.u.). The limitations apply to discharges that have the potential to reduce the quality of a surface water below the appropriate standard despite the location of the outfall. The pH limitation of 6.0 S.U. applies to discharge points that drain to class II and III streams. Stream classifications may be found in NDAC 33-16-02.1, Appendix I. If a stream is not specifically mentioned in Appendix I, then it is considered a class III stream.

### **Oil & Grease**

The WQS state that waters of the state must be free from oil or grease attributable to wastewater which causes a visible sheen or film upon the water. Using BPJ the department has determined that a daily maximum limitation of 10 mg/L is appropriate for active industrial areas if a visible sheen is detected. Other treatment systems in the state have similar limitations.

### **Total Sulfate**

The WQS state that Class III streams shall have a total sulfate maximum concentration of 750 mg/l as a 30-day arithmetic average.

### **HUMAN HEALTH**

North Dakota's water quality standards include numeric human health-based criteria that the Department must consider when writing NDPDES permits. These criteria were established in 1992 by the U.S. EPA in its National Toxics Rule (40 CFR 131.36). The National Toxics Rule allows states to use mixing zones to evaluate whether discharges comply with human health criteria. The department determined the applicant's discharge is unlikely to contain chemicals regulated to protect human health. The department will re-evaluate this discharge for impacts to human health at the next permit reissuance.

## **MONITORING REQUIREMENTS**

The department requires monitoring, recording, and reporting (NDAC Chapter 33-16-01-(21 through 23) and 40 CFR 122.41) to verify that the treatment process is functioning correctly and that the discharge complies with the permit's limits.

Discharge monitoring reports shall cover a three-month period and shall be submitted on a quarterly basis. The reporting periods are April 1 through June 30, July 1 through September 30, October 1 through December 31, and January 1 through March 31. Discharge monitoring reports must be submitted by the last day of the month following the reporting period (e.g., April 1 through June 30, due July 31). The proposed permit expiration date is March 31, 2024.

## **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 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.

## **OTHER PERMIT CONDITIONS**

### **Stormwater Pollution Prevention Plan**

A stormwater pollution prevention plan (SWPPP) shall be maintained and implemented for all areas of the plant which do not drain to the sedimentation ponds. The objective of the plan is to identify potential sources of stormwater pollution and ensure that BMPs are implemented to minimize the contribution of pollutants to the receiving water. BMPs include erosion and sediment controls as well as inspection and maintenance requirements. Refer to Appendix E for information to include in the SWPPP.

## **PERMIT ISSUANCE PROCEDURES**

### **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.

### **PROPOSED PERMIT ISSUANCE**

This proposed permit meets all statutory requirements for the Department to authorize a wastewater discharge. The permit includes limits and conditions to protect human health and aquatic life, and the beneficial uses of waters of the State of North Dakota. The department proposes to issue this permit for a term of five (5) years.

## APPENDIX A – PUBLIC INVOLVEMENT INFORMATION

The Department proposes to reissue a permit to **Hess Tioga Gas Plant LLC** for its natural gas processing plant. The permit includes stormwater discharge limits and other conditions. This fact sheet describes the facility and the Department's reasons for requiring permit conditions.

The Department will place a Public Notice of Draft on **February 13, 2019** in the **Williston Herald** to inform the public and to invite comment on the proposed draft North Dakota Pollutant Discharge Elimination System permit and fact sheet.

The notice –

- Indicates where copies of the draft Permit and Fact Sheet are available for public evaluation.
- Offers to provide assistance to accommodate special needs.
- Urges individuals 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 Health  
Division of Water Quality  
918 East Divide Avenue, 4<sup>th</sup> Floor  
Bismarck, ND 58501-1947

The primary author of this permit and fact sheet is Duane Sandvick.



**North Dakota Department of Health Public Notice  
Reissue of an NDPDES Permit**

Public Notice Date: 2/13/2019

Public Notice Number: ND-2019-005

**Purpose of Public Notice**

The Department intends to reissue 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: 9/10/2018

Application Number: ND0025836

Applicant Name: Hess Tioga Gas Plant LLC

Mailing Address: 10340 68th St. NW, Tioga, ND 58852

Telephone Number: 701.664.6200

Proposed Permit Expiration Date: 3/31/2024

**Facility Description**

The reapplication is for a storm water runoff collection system located in the NE1/4, Section 26, Township 157 N, Range 95 W. All discharges would consist of facility stormwater runoff, and would be to an unnamed tributary of Paulsen Creek.

**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 FWPCAA 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 Health, Div of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 or by calling 701.328.5210.

All comments received by March 14, 2019 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.

## APPENDIX B – GLOSSARY

### DEFINITIONS Standard Permit BP 2013.12.31

1. “**Act**” means the Clean Water Act.
2. “**Average monthly discharge limitation**” means the highest allowable average of “daily discharges” over 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.
3. “**Average weekly discharge limitation**” means the highest allowable average of “daily discharges” over 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.
4. “**Best management practices**” (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.
5. “**Bypass**” means the intentional diversion of waste streams from any portion of a treatment facility.
6. “**Composite**” sample means a combination of at least 4 discrete sample aliquots, collected over periodic intervals from the same location, during the operating hours of a facility not to exceed a 24 hour period. The sample aliquots must be collected and stored in accordance with procedures prescribed in the most recent edition of Standard Methods for the Examination of Water and Wastewater.
7. “**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 units of mass, the “daily discharge” is calculated as the total mass of the pollutant discharged over the 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 day.
8. “**Department**” means the North Dakota Department of Health, Division of Water Quality.
9. “**DMR**” means discharge monitoring report.
10. “**EPA**” means the United States Environmental Protection Agency.
11. “**Geometric mean**” means the  $n^{\text{th}}$  root of a product of  $n$  factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.

12. "**Grab**" for monitoring requirements, means a single "dip and take" sample collected at a representative point in the discharge stream.
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. "**Maximum daily discharge limitation**" means the highest allowable "daily discharge."
15. "**Salmonid**" means of, belonging to, or characteristic of the family Salmonidae, which includes the salmon, trout, and whitefish.
16. "**Sanitary Sewer Overflows (SSO)**" means untreated or partially treated sewage overflows from a sanitary sewer collection system.
17. "**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.
18. "**Total drain**" means the total volume of effluent discharged.
19. "**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.

## **APPENDIX C – DATA AND TECHNICAL CALCULATIONS**

The Department reviewed DMR information and applicable water quality standards for Class III streams to determine the appropriate requirements to be placed in the permit.

DRAFT

**APPENDIX D – RESPONSE TO COMMENTS**

Comments received during the public comment period will reviewed and addressed here

DRAFT

## **Appendix E - STORMWATER POLLUTION PREVENTION PLAN**

A stormwater pollution prevention plan shall be maintained and implemented for all areas of the plant which do not drain to the stormwater sedimentation ponds.

The objective of the plan is to identify potential sources of stormwater pollution and ensure that practices are implemented to minimize the contribution of pollutants to the receiving water. Stormwater management measures developed under other regulatory programs can be included in the SWPP plan or incorporated by reference.

The Stormwater Pollution Prevention Plan shall include the following:

### **1. Site Description**

**a.** Provide a description of the type of activity conducted at the facility.

**b.** A site map indicating drainage patterns; the outline of the drainage area for each stormwater outfall; areas used for storage or disposal of materials; and any existing or planned structures to reduce stormwater contamination. Clearly identify property boundaries, natural drainage ways receiving discharges, section, township, and range or lines of latitude and longitude. The map or drawing must be of suitable scale and quality to show the required information.

**c.** Identify the individual(s) responsible for implementing, maintaining and revising the SWPP plan.

### **2. Description of Potential Pollutant Sources.**

**a.** Identify materials that are processed, handled, stored, or disposed of at the facility that have the potential to be released with stormwater.

**b.** Provide an assessment of the various sources at the facility that could contribute pollutants to stormwater runoff. Each of the following shall be evaluated for the reasonable potential to contribute pollutants: loading/unloading operations, outdoor storage, disposal and processing activities, significant dust generating activities, and disturbed areas vulnerable to erosion.

Factors to consider in assessing potential sources are: the nature and quantity of material, degree of exposure to stormwater, history of spills or leaks, and any measures in place to control stormwater.

**c.** Identify sources of non-stormwater discharges that may be present and controls used to minimize the impact of the source. If the non-stormwater discharge is from a source other than those listed below, include measures to remove the illicit discharge.

Allowable non-stormwater discharge include: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as

defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water, discharges or flows from fire fighting activities.

**d.** For facilities subject to Emergency Planning and Community Right-to-Know Act Section 313 (EPCRA 313) requirements, the potential pollutant sources for which you report under EPCRA 313 must be identified in your description of potential pollutant sources.

**3. Stormwater Controls.** The plan shall describe the existing or planned controls for each source or operation that may contribute pollutants to stormwater runoff. A combination of Best Management Practices (BMPs) and structural controls must be implemented as appropriate to reduce pollutant contributions in stormwater. Such practices include:

**a.** Good housekeeping practices to maintain a clean and orderly facility. Litter, debris, chemicals, and parts must be handled properly to minimize their exposure to stormwater. This includes measures to reduce and clean up vehicle tracking of sediment off-site and generation of dust.

**b.** Preventive maintenance practices must be provided for the inspection and maintenance necessary to ensure the proper operation of stormwater management devices (oil/water separators, catch basins, and silt fences) as well as equipment used or stored at a site.

**c.** Spill prevention and response procedures must be developed where potential spills can occur.

Where appropriate, specific handling procedures, storage requirements, spill containment, and cleanup procedures shall be identified.

**d.** Employee training informs personnel of their responsibility in implementing the practices and controls included in the plan such as spill response, good housekeeping, preventive maintenance, and sediment control practices.

**e.** Erosion and sediment controls must be implemented on areas of the facility vulnerable to erosion. Areas vulnerable to erosion include those with little or no vegetation, steep slopes, or those with concentrated runoff flows such as ditches and culverts. The plan shall identify the control measures that will be used to minimize the release of sediment from the site (such as sediment basins, rock check dams, silt fences, vegetative buffers, permanent seeding, grassed swales, etc.) as well as methods to recover off-site sediment accumulations.

**f.** Minimize exposure of industrial materials and activities to the extent practicable. Identify practices or site feature (such as storm resilient shelters) which limit the exposure or contact of stormwater with materials or activities.

**g.** Stormwater Management. The plan shall include a description of practices that have been installed to control pollutants in stormwater discharges from the facility or offset the increase

in runoff due to impervious area at the facility. Such practices may include: stormwater ponds; flow reduction by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems which combine several practices. The plan should include an explanation of the technical basis used to select the practices to control pollution where flows exceed pre-development levels.

**4. Maintenance.** All structural stormwater controls and other protective measures identified in the plan must be maintained in effective operating condition. All control measures must be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices. The plan must indicate as appropriate the maintenance or clean out interval for sediment controls. If site inspections, required in this permit, identify BMPs that are not operating effectively, maintenance shall be arranged and accomplished as soon as practicable.

**5. Inspections.** The plan must provide for site inspections to monitor the condition of stormwater discharge outlets and the effectiveness of stormwater controls. The permittee shall ensure that personnel conducting site inspections are familiar with permit conditions and the proper installation and operation of control measures. A comprehensive inspection of the facility's stormwater control system should be made at least once (1) during a 6 month period or as specified in the permittee's program for pollution prevention/good housekeeping for municipal operations.

**6. Plan Review and Revisions.**

**a.** The permittee shall amend the SWPP plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the state. The plan shall also be amended if the plan is found to be ineffective in controlling pollutants present in stormwater.



Permit No: ND0025836  
Effective Date: April 01, 2019  
Expiration Date: March 31, 2024

AUTHORIZATION TO DISCHARGE UNDER THE  
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

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

Hess Tioga Gas Plant LLC  
10384 68<sup>th</sup> Street NW  
Tioga, North Dakota 58852

is authorized to discharge from its sedimentation ponds located near Tioga, North Dakota

to an unnamed tributary of Paulsen Creek, a class III stream

provided all the conditions of this permit are met.

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

March 31, 2024.

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

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

BP 2014.06.12

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## DEFINITIONS

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18. "**Total drain**" means the total volume of effluent discharged.
19. "**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.

**OUTFALL DESCRIPTION**

**Outfall 001** – Active. Final Outfall. Sedimentation Pond Discharge. The holding pond receives surface runoff water from the facility. The outfall is located in the SW1/4, NE1/4, Section 26, Township 157 North, Range 95 West, Williams County.

**Outfall 002** – Active. Final Outfall. Sedimentation Pond Discharge. The holding pond receives surface runoff water from the facility. The outfall is located in the SW1/4, NE1/4, Section 26, Township 157 North, Range 95 West, Williams County.

**Outfall 003** – Active. Final Outfall. Sedimentation Pond Discharge. The holding pond receives surface runoff water from the facility. The outfall is located in the NE1/4, NE1/4, Section 26, Township 157 North, Range 95 West, Williams County.

**PERMIT SUBMITTALS SUMMARY**

Coverage Point	Submittal	Frequency	First Submittal Date
001	Discharge Monitoring Report	Quarterly	July 31, 2019
002	Discharge Monitoring Report	Quarterly	July 31, 2019
003	Discharge Monitoring Report	Quarterly	July 31, 2019
Application Renewal	NPDES Application Renewal	1/permit cycle	October 1, 2024 (Along with Form 1 and 2F)

**I. LIMITATIONS AND MONITORING REQUIREMENTS**

**A. Discharge Authorization**

1. During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfall(s) specified herein to an unnamed tributary to Paulsen Creek. This permit authorizes the discharge of only those pollutants resulting from activities that have been clearly identified in the permit application process.

**B. Effluent Limitations and Monitoring**

1. The permittee must limit and monitor discharges from Outfalls 001, 002, and 003 as specified in Part I.B (“Effluent Limitations and Monitoring”).

Table 1: Effluent Limitations and Monitoring Requirements

Parameter	Discharge Limitations		Monitoring Requirements	
	30 Day Avg	Daily Max	Sample Frequency	Sample Type
Total Suspended Solids <sup>a</sup> (mg/l)	35.0	70.0	Weekly	Grab
Chemical Oxygen Demand (mg/l)	*	*	Weekly	Grab
pH (SU) <sup>b</sup>	between 6.0 and 9.0		Weekly	Instantaneous
Oil and Grease <sup>c</sup> – Visual	*	*	Daily	Visual
Oil and Grease <sup>c</sup> (mg/l)	*	10.0	Conditional - Weekly	Grab
Sulfates, Total (mg/l)	750	*	Weekly	Grab
Total Days Discharging	N/A	N/A	Monthly	Calculated
Drain, Total (MG)	N/A	N/A	Quarterly	Calculated
Flow, Total (MGD)	*	*	Daily	Calculated

Notes:

a. Alternate Limitations: The department may waive the limitations for Total Suspended Solids for overflows caused by single or series of precipitation or snowmelt events greater than 2.75 inches after reviewing all information submitted in response to the Notice of Noncompliance Reporting conditions (Part IV.F.1(c)). To qualify for such a waiver, the facility must be designed, constructed, operated, and maintained to contain the runoff from a 100-year, 1-hour storm event (2.75 inches). In addition, any required pond dewatering must have been accomplished within 10 days of the last precipitation event or, in the case of snowmelt, prior to freeze-up. Additional time is allowable when dewatering is delayed due to activities or conditions downstream of the facility. Precipitation shall be monitored by gauge, and recorded daily by the permittee. If the permittee elects, the results from the nearest National Weather Station may be used. The permittee has the burden of proof that these conditions are met.

b. The pH, an instantaneous limitation, shall be between 6.0 standard units and 9.0 standard units. Any single analysis and/or measurement beyond this limitation shall be considered a violation of the conditions of this permit.

c. There shall be no floating oil or visible sheen present in the discharge. If floating oil or a visible sheen is detected in the discharge, the department shall be contacted and a grab sample analyzed to ensure compliance with the concentration limitation.

\* This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.

Table 1: Effluent Limitations and Monitoring Requirements

N/A Not Applicable

There shall be no discharge of floating solids or visible foam in other than in trace amounts. There shall be no unsightly or deleterious floating materials present in the discharge.

Samples obtained for permit compliance shall be taken prior to the discharge water leaving company property or entering any receiving stream.

Dates of discharges, frequency of monitoring and number of exceedances shall also be included on the Discharge Monitoring Reports.

There shall be no discharge of any waters other than storm water runoff. Sediment ponds, spill containment structures, and diversions shall be inspected and maintained to preserve their integrity and efficient operation.

Any pesticides shall be handled and applied according to the manufacturers' instructions. A record of pesticide application at the plant shall be maintained on-site. Additional monitoring may be required, if needed, to evaluate the effects the discharge may have on the receiving stream.

The department may specify additional discharge conditions or restrictions at any time to maintain water quality standards.

## II. SPECIAL CONDITIONS

**A stormwater pollution prevention plan shall be developed and implemented for all areas of the plant which do not drain to the stormwater sedimentation ponds.**

The objective of the plan is to identify potential sources of stormwater pollution and ensure that practices are implemented to minimize the contribution of pollutants to the receiving water. Stormwater management measures developed under other regulatory programs can be included in the SWPP plan or incorporated by reference.

The Stormwater Pollution Prevention Plan shall include the following:

### 1. Site Description

- a. Provide a description of the type of activity conducted at the facility.
- b. A site map indicating drainage patterns; the outline of the drainage area for each stormwater outfall; areas used for storage or disposal of materials; and any existing or planned structures to reduce stormwater contamination. Clearly identify property boundaries, natural drainage ways receiving discharges, section, township, and range or lines of latitude and longitude. The map or drawing must be of suitable scale and quality to show the required information.
- c. Identify the individual(s) responsible for implementing, maintaining and revising the SWPP plan.

### 2. Description of Potential Pollutant Sources.

- a. Identify materials that are processed, handled, stored, or disposed of at the facility that have the potential to be released with stormwater.



**b.** Provide an assessment of the various sources at the facility that could contribute pollutants to stormwater runoff. Each of the following shall be evaluated for the reasonable potential to contribute pollutants: loading/unloading operations, outdoor storage, disposal and processing activities, significant dust generating activities, and disturbed areas vulnerable to erosion.

Factors to consider in assessing potential sources are: the nature and quantity of material, degree of exposure to stormwater, history of spills or leaks, and any measures in place to control stormwater.

**c.** Identify sources of non-stormwater discharges that may be present and controls used to minimize the impact of the source. If the non-stormwater discharge is from a source other than those listed below, include measures to remove the illicit discharge.

Allowable non-stormwater discharge include: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water, discharges or flows from firefighting activities.

**d.** For facilities subject to Emergency Planning and Community Right-to-Know Act Section 313 (EPCRA 313) requirements, the potential pollutant sources for which you report under EPCRA 313 must be identified in your description of potential pollutant sources.

**3. Stormwater Controls.** The plan shall describe the existing or planned controls for each source or operation that may contribute pollutants to stormwater runoff. A combination of Best Management Practices (BMPs) and structural controls must be implemented as appropriate to reduce pollutant contributions in stormwater. Such practices include:

**a.** Good housekeeping practices to maintain a clean and orderly facility. Litter, debris, chemicals, and parts must be handled properly to minimize their exposure to stormwater. This includes measures to reduce and clean up vehicle tracking of sediment off-site and generation of dust.

**b.** Preventive maintenance practices must be provided for the inspection and maintenance necessary to ensure the proper operation of stormwater management devices (oil/water separators, catch basins, and silt fences) as well as equipment used or stored at a site.

**c.** Spill prevention and response procedures must be developed where potential spills can occur. Where appropriate, specific handling procedures, storage requirements, spill containment, and cleanup procedures shall be identified.

**d.** Employee training informs personnel of their responsibility in implementing the practices and controls included in the plan such as spill response, good housekeeping, preventive maintenance, and sediment control practices.

**e.** Erosion and sediment controls must be implemented on areas of the facility vulnerable to erosion. Areas vulnerable to erosion include those with little or no vegetation, steep slopes, or those with concentrated runoff flows such as ditches and culverts. The plan shall identify the control measures that will be used to minimize the release of sediment from the site (such as sediment basins, rock check dams, silt fences, vegetative buffers, permanent seeding, grassed swales, etc.) as well as methods to recover off-site sediment accumulations.

f. Minimize exposure of industrial materials and activities to the extent practicable. Identify practices or site feature (such as storm resilient shelters) which limit the exposure or contact of stormwater with materials or activities.

g. Stormwater Management. The plan shall include a description of practices that have been installed to control pollutants in stormwater discharges from the facility or offset the increase in runoff due to impervious area at the facility. Such practices may include: stormwater ponds; flow reduction by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems which combine several practices. The plan should include an explanation of the technical basis used to select the practices to control pollution where flows exceed pre-development levels.

**4. Maintenance.** All structural stormwater controls and other protective measures identified in the plan must be maintained in effective operating condition. All control measures must be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices. The plan must indicate as appropriate the maintenance or clean out interval for sediment controls. If site inspections, required in this permit, identify BMPs that are not operating effectively, maintenance shall be arranged and accomplished as soon as practicable.

**5. Inspections.** The plan must provide for site inspections to monitor the condition of stormwater discharge outlets and the effectiveness of stormwater controls. The permittee shall ensure that personnel conducting site inspections are familiar with permit conditions and the proper installation and operation of control measures. A comprehensive inspection of the facility's stormwater control system should be made at least once (1) during a 6 month period or as specified in the permittee's program for pollution prevention/good housekeeping for municipal operations.

#### **6. Plan Review and Revisions.**

a. The permittee shall amend the SWPP plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the state. The plan shall also be amended if the plan is found to be ineffective in controlling pollutants present in stormwater.

### **III. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2017.08.21**

#### **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:
  - a. General permit reports [e.g., notices of intent (NOI); notices of termination (NOT); no exposure certifications (NOE)];
  - b. Municipal separate storm sewer system program reports;
  - c. Pretreatment program reports;
  - d. Sewer overflow/bypass event reports; and
  - e. 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.
  - a. One of the following criteria must be met in order to obtain a waiver. The department reserves the right to deny any waiver request, even if they meet one of the criteria below.
    1. No internet access,
    2. No computer access,
    3. Annual DMRs (upon approval of the department),
    4. Employee turnover (3 month periods only), or
    5. Short duration permits (upon approval of 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 Health  
Division of Water Quality  
918 East Divide Ave  
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.

#### **IV. 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.

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. 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.
  - b. 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.

**V. GENERAL PROVISIONS**

**A. Inspection and Entry**

The permittee shall allow department and EPA representatives, at reasonable times and 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 should inform 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.