

North Dakota Department of Environmental Quality Public Notice
Reissue of an NDPDES Permit

Public Notice Date: 11/8/2023

Public Notice Number: ND-2023-020

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: 4/17/2023

Application Number: ND0025984

Applicant Name: Assoc Potato Growers Grafton

Mailing Address: 1578 Russett Ave, Grafton, ND 58237

Telephone Number: 701.352.0520

Proposed Permit Expiration Date: 12/31/2028

Facility Description

This application is for a potato washing plant. The facility located on the east side of highway 81, approximately a half mile south from the intersection of highways 17 and 81. The Associated Potato Growers – Grafton utilizes one waste stabilization pond for treatment that is a rectangular shaped pond. This Pond is located on the south side of the facility, in the NW ¼ of the NW ¼ of the SW ¼ Section 19, Township 157 North, Range 52 West and has a surface area of approximately 2.526 acres.

The treated effluent flows from the waste stabilization pond, into a ditch drainage, a Class III stream via a pump over the dike on the east edge. The drainage ditch flows into the road ditch along Russett Avenue which leads to Grafton's storm sewer system, a Class III Stream, and eventually the Park River, a Class II Stream. Russett Avenue runs north and south, along the west side of the property. The storm sewer system flows north approximately a mile and a half into the Park River. This system utilizes a "Controlled Discharge" and is deemed to be non-continuous.

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. For further information on making public comments/public comment tips please visit: <https://deq.nd.gov/PublicCommentTips.aspx>. Comments or requests should be directed to the ND Dept of Env Quality, Div of Water Quality, 4201 Normandy Street, Bismarck ND 58503-1324 or by calling 701.328.5210.

All comments received by December 08, 2023 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.

The NDDEQ will consider every request for reasonable accommodation to provide an accessible meeting facility or other accommodation for people with disabilities, language interpretation for people with limited English proficiency (LEP), and translations of written material necessary to access programs and information. Language assistance services are available free of charge to you. To request accommodations, contact the NDDEQ Non-discrimination Coordinator at 701-328-5210 or deqEJ@nd.gov. TTY users may use Relay North Dakota at 711 or 1-800-366-6888.

**STATEMENT OF BASIS FOR NDPDES PERMIT ND0026204
July 2023**

**ASSOCIATED POTATO GROWERS INC.
GRAFTON, ND**

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 EPA. The North Dakota Department of Environmental Quality (NDDEQ), hereafter referred to as "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 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 North Dakota Administrative Code (NDAC) 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.

The following rules or regulations apply to NDPDES permits:

- Procedures the department follows for issuing NDPDES permits (NDAC chapter 33.1-16-01),
- Standards of Quality for Waters of the State (NDAC chapter 33.1-16-02.1).

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 NDAC section 33.1-16-01-08, 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 section 33.1-16-01-07). 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:	Associated Potato Growers Inc.
Facility Name and Address:	Associated Potato Growers Inc. Grafton Facility 1578 Russett Ave, Grafton, ND 58237
Owner:	Associated Potato Growers Inc.
Operator:	Associated Potato Growers Inc.
Facility Contact(s):	Mike Torgerson Manager 701.352.0520
NDPDES Permit Number:	ND0025984
Permit Type:	Minor Industrial, Renewal
Standard Industrial Classification Code(s):	0134, Irish Potatoes
North American Industry Classification System:	111211, Potato Farming
Treatment Type(s):	Waste Stabilization Pond
Discharge Location:	Grafton storm sewer system, Class III stream Latitude: 48.48.403409; Longitude: -97.402761
Hydrologic Code:	09020310 – Park River, Class II Stream



Figure 1 – Location overview of the Associated Potato Growers Inc.– Grafton, ND (Google Earth July 28, 2023)

DESCRIPTION OF OPERATIONS

Associated Potato Growers Inc. facility is in Drayton, ND and is an agricultural processing facility that is located on the east side of state highway 81, approximately a half mile south from the intersection of state highways 17 and 81. The main operations at this facility are washing and bagging of red potatoes for retail. In a typical year the facility processes up to 350,000 c.w.t (hundredweight) of potatoes annually, this year currently the facility has processed 260,000 c.w.t. and in the past have processed up to 450,000 c.w.t. A typical cleaning campaign starts in October (the beginning of the harvest season) and ends in May of the following year. The facility operates five days a week for a nine-month period. At times, the campaign has gone longer than nine months in the past. The Potatoes to be processed are grown and harvested by Associated Potato Growers.

To begin, potatoes are taken from the storage buildings to the start of the washing process line. The washing operation removes soil and other debris from the potatoes prior to marketing. After washing, the facility discharges the spent process water (containing mineral and organic solids) to a waste stabilization pond located approximately five hundred feet south of the facility for

treatment. Associated Potato is the only operation discharging to the stabilization pond. Municipal water is used for the washing process. The wash water is recycled from the flume that holds the wash water. The flume is flushed three times per week, using approximately 2,000 gallons per flushing. Flushed water is pumped into the stabilization pond, where treatment takes place. Under normal conditions, the wash water and soil accumulated during the process campaign is contained in the pond until the following summer. The pond has a surface area of 2.526 acres and is normally discharged once per year through Outfall 001 into Grafton storm sewer system. There is no discharge pipe in the pond, so a gas pump is used to aid in the discharge process.

The department utilizes Best Professional Judgment (BPJ) to regulate discharges from agricultural processing facilities like Associated Potato to minimize any impact on receiving waters. Wash water and solids from the potatoes are collected in the pond. After the water in the pond evaporates or is discharged, the amount of residual solids in the pond are assessed. If a significant amount of solids are found to be limiting the pond's capacity, excavation of the solids will take place to restore the pond to full functionality. No major excavation operations have taken place during the previous permit cycle (1/01/2019 to 12/31/2023). The solids are stacked in a vegetative area on the east side of the pond. A vegetative buffer is maintained stacked solids. The solids are hauled back to the growers' fields that supply the potatoes for washing and spread on the fields. All sanitary wastewater from this facility is discharged to the city of Grafton.

Outfall Description

The authorization to discharge wastewater provided under this permit is limited to the outfall(s) specifically designated as the permitted discharge location(s). Discharges at any location not authorized under a NDPDES permit is a violation of the CWA and could subject the person(s) responsible for such discharge 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 and description.

Outfall 001. Active. Final.			
Latitude: 48.403409		Longitude: -97.402761	
County: Walsh			
Township: 157N	Range: 52W		Section: 19
QQ: CBB			
Receiving Stream: road ditch for Russett Avenue			Classification: Class III
Outfall Description: The treated effluent flows from the waste stabilization pond, into a drainage ditch, a Class III stream via a pump over the dike on the east edge. The drainage ditch flows into the road ditch along Russett Avenue which leads to Grafton's storm sewer system, a Class III Stream, and eventually the Park River, a Class II Stream. Russett Avenue runs north and south, along the west side of the property. The storm sewer system flows north approximately a mile and a half into the Park River. This system utilizes a "Controlled Discharge" and is deemed to be non-continuous.			

Production Rate

This facility operates Monday through Friday, 8:00 a.m. to 5:00 p.m. and utilizes approximately 2,000 gallons of water per day during peak processing. During the last permit cycle, the facility discharged three times from the facility's outfall location.

PERMIT STATUS

Associated Potato Growers Inc. was subject to permit by rule after construction in 1965 and was issued an individual NDPDES permit by the department on January 1, 1999. Since then, permits for this facility have been renewed on a five-year cycle in accordance with EPA permitting guidelines. The most recent permit was issued on January 1, 2019. The previous permit placed effluent limits on the following parameters: biochemical oxygen demand (BOD₅), pH, total suspended solids (TSS), pH, and fecal coliform. On May 12, 2023, the department received a renewal application (SFN 8319 - Short Form C) from Associated Potato which, upon review of completeness, was accepted by the department on May 12, 2023.

SUMMARY OF COMPLIANCE WITH PREVIOUS PERMIT

The department's assessment of compliance is based on a review of the facility's Discharge Monitoring Reports (DMRs) and the physical inspections conducted by department staff. Two inspections (2020, 2023) were conducted by the department during the recent permit cycle. A common issue addressed on the inspection reports from the previous permit cycle was cleaning and maintenance of the pond's inlet and hauling the removed solids.

Discharge Monitoring Report records indicate that three discharges were made from the stabilization pond during the previous permit cycle. A summary of these records and the current effluent limitations are listed in Table 3.

Table 3 – Previous permit limits and Discharge Monitoring Report data summary from Outfall 001 for January 1, 2019 – December 30, 2023.

Parameter	Permit Limit	Range	Average	Total Exceedances
BOD ₅ (mg/L) ^{a/}	25	3.25-7.73	6.23	0
TSS (mg/L) ^{a/}	30	8-78	36.9	1
pH (S.U.)	6.0 to 9.0	7.72-8.50	NA	0
Fecal Coliform (number/100 ml) ^{b/}	400	96-648.8	296.26	1
Drain (Mgal)	NA	0.408 – 3.267	14.497	NA

Parameter	Permit Limit	Range	Average	Total Exceedances
Notes: The facility discharged from outfall 001 for a total of 19 days between August 2019 and September 2021 with the average discharge lasting 7 days. ^{a/} Limit is expressed as a 30-day average. ^{b/} Limit is expressed as a daily maximum.				

PROPOSED PERMIT LIMITS AND SELF-MONITORING REQUIREMENTS

Associated Potato has the standard industrial classification (SIC) 0134: Irish Potatoes. This classification is given to facilities who engage in the production of potatoes. Due to the presence of a stabilization pond, it is with the use of Best Professional Judgement (BPJ) that the department assigned the secondary treatment standards as defined in the Code of Federal Regulations (CFR) at 40 CFR 133 and North Dakota Administrative Code (NDAC) 33.1-16-01-30 supplemented by the Water Quality Standards (WQS) as the effluent limitations for the facility. These regulations are performance standards that constitute all known, available, and reasonable methods of prevention, control, and treatment for the permitted waste stream. In addition, using BPJ, the department is incorporating 40 CFR 409.12 for fecal coliform.

NDAC 33.1-16-01-30 incorporates by reference 40 CFR 133. Part 133.102 lists the following secondary treatment limits for BOD₅, TSS, and pH:

Table 4 – Secondary treatment standards under 40 CFR 133.102.

Parameter	30-Day Average	7-Day Average
BOD ₅ (mg/L)	30	45
TSS (mg/L)	30	45
pH (S.U.)	6.0 to 9.0	
Percent Removal	85% BOD ₅ and TSS	

Effluent Limitations

The following limitations are based on promulgated guidelines as outlined in the 40 CFR Part 133.102, NDAC 33.1-16-02.1, and the WQS. Limitations may be generated using BPJ in the absence of a federal standard to ensure reasonable control technologies are used to prevent potential harmful effects of the discharge.

Sampling shall consist of one sample to be taken and analyzed prior to any discharge. This analysis shall be reported to the department prior to discharge and used for the first week of discharge. In addition, one grab sample of the actual discharge shall be taken and analyzed on a weekly basis for each additional week of the discharge, starting on the 8th day of discharge. Samples and measurements shall be representative of the nature of the regulated wastewater discharge. Test procedures for the analysis of pollutants shall conform to regulations published

STATEMENT OF BASIS FOR NDPDES PERMIT ND0025984 – DRAFT
ASSOCIATED POTATO GROWERS INC. – GRAFTON, ND
EXPIRATION DATE: DECEMBER 31, 2028
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pursuant to Section 304 (h) of the CWA codified in 40 CFR 136. The effluent limitations are provided in Table 5.

Table 5 – Effluent Limitations – Outfall 001

Parameter	Avg. Monthly Limit	Avg. Weekly Limit	Daily Maximum	Basis ^{a/}
BOD ₅ (mg/L)	25	45	*	Previous Permit 40 CFR 133.102(a) NDAC 33.1-16-01-14(3)(c)(1)
Total Suspended Solids (TSS) (mg/L)	30	45	*	Previous Permit 40 CFR 133.102(b)
pH (S.U.)	Shall remain between 6.0 and 9.0			Previous Permit WQS 40 CFR 133.102(c)
Fecal Coliform (number/100)	*	*	400	BPJ 40 CFR 409.12
Stipulations: Best Management Practices (BMPs) are to be utilized so that there shall be no discharge of floating debris, oil, scum, and other floating materials in sufficient amounts to be unsightly or deleterious, or oil wastes that produce a visible sheen on the surface of the receiving water.				
Notes: * This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters. ^{a/} The basis of the effluent limitations is given below: “Previous Permit” refers to limitations in the previous permit. The NPDES regulations 40 CFR Part 122.44(1)(1) Reissued permits 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 40 CFR Part 122.62. “WQS” refers to effluent limitations based on the State of North Dakota’s “Standards of Quality for Waters of the State”, NDAC Chapter 33.1-16-02.1. “BPJ” refers to Best Professional Judgment as determined by the North Dakota Department of Environmental Quality.				

Self-Monitoring Requirements

Discharge Authorization

During the effective period of this permit, the permittee is authorized to discharge pollutants from the described outfall(s) to an unnamed drainage, a Class III stream.

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

The permittee is required to collect samples that are representative of the discharged process wastewater. The minimum monitoring schedule is detailed below in Table 6. Specified monitoring frequencies take into account the quantity and variability of the discharge, the treatment method, past compliance, and pollutant significance.

Table 6 – Self-Monitoring Requirements – Outfall 001

Parameter	Sample Type ^{a/}	Frequency
BOD ₅ (mg/L)	Grab	1/week ^{b/}
TSS (mg/L)	Grab	1/week ^{b/}
Fecal Coliform	Grab	1/week ^{b/}
pH (S.U.)	Grab	1/week ^{b/}
Drain (Mgal)	Calculated	1/event
Notes: ^{a/} Refer to Appendix B for definitions. ^{b/} Sampling shall consist of one (1) grab sample to be taken and analyzed prior to any discharge. This analysis shall be reported to the department and used for the first week of discharge. In addition, one (1) grab sample of the actual discharge shall be taken and analyzed on a weekly basis for each additional week of the discharge, starting on the 8th day of the discharge. ^{c/} The total amount of water discharged shall be determined either by using a flow-measuring device or by recording the water level drop in the pond.		

SURFACE WATER QUALITY-BASED EFFLUENT LIMITS

The North Dakota State Water Quality Standards (NDAC Chapter 33.1-16-02.1) 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.

The unnamed drainage, which runs from Highway 66 downstream to its confluence with the Red River, is classified as a Class III stream. Under NDAC 33.1-16-02.1-09(d), the quality of waters

in this class shall be suitable for agricultural and industrial uses and must be maintained to protect secondary contact recreation uses (e.g., wading), fish and aquatic biota, and wildlife uses. This section of the unnamed drainage receiving the facility's discharge is not listed on the North Dakota 2018 Integrated Section 305(b) Water Quality Assessment Report and Section 303(d) List of Waters Needing Total Maximum Daily Loads.

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 33.1-16-02.1). 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.

North Dakota's water quality standards also 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 Water Quality Standards also include radionuclide criteria to protect humans from the effects of radioactive substances.

Narrative Criteria

Narrative water quality criteria (NDAC Chapter 33.1-16-02.1-08) 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 33.1-16-02.1 (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.

Mixing Zones

The department's WQS contain a Mixing Zone and Dilution Policy and Implementation Procedure, NDAC Chapter 33.1-16-02.1 (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

BOD₅

North Dakota Administrative Code 33.1-16-01-14(3)(c)(1) allows adjustment of BOD₅ secondary treatment criteria to reflect site specific considerations. A five-day biochemical oxygen demand limit of twenty-five milligrams per liter (consecutive thirty-day average) may be applied in instances in which limits expressed in terms of secondary treatment standards would be impractical or deemed inappropriate to protect receiving waters. The 25 mg/L consecutive 30-day BOD₅ average is applied in place of the 30-day average listed under 40 CFR 133.102.

According to department records this facility has discharged three times during this permitting cycle. The department has reviewed the BOD₅ data and sampling frequency, and no exceedances occurred for this parameter. The department proposes to continue with a 25 mg/l monthly average BOD₅ limit and a 45 mg/l weekly average BOD₅ limit with a sampling frequency of weekly.

TSS

According to department records this facility has discharged three times during this permitting cycle. The department has reviewed the TSS data and sampling frequency, and one exceedance occurred for this parameter of 78 mg/L. In reviewing the Technical Review Criteria (TRC) for the 30-day average limit using the following equation: $TRC\ 1.4 * TSS\ 30\ mg/l = TSS\ 42\ mg/l$. The department proposes to continue with the 30 mg/l monthly average limit and a 45 mg/l weekly average TSS limit with a sampling frequency of weekly. There is no basis for increasing the permitted TSS limit. The facility has proven capable of remaining within the confines of the secondary treatment limitation.

pH

According to department records this facility has discharged three times during this permitting cycle. The department has reviewed the pH data and sampling frequency, and no exceedances occurred for this parameter. Secondary treatment standards under 40 CFR 133.102(c) and the WQS support the best professional judgement determination that effluent values for pH shall be maintained within the limits of 6.0 and 9.0.

Percent Removal

The department acknowledges that 40 CFR 133.102 requires the 30-day average percent removal of BOD₅ and TSS be no less than 85%. Representative rates are determined from influent and effluent samples being collected at approximately the same time and from consistent waste streams. Waste stabilization ponds often have variable hydraulic residence times that exceed 30 days. Therefore, influent and effluent samples would not be representative of the same wastewater. The department has determined not to include the percent removal requirements in the proposed limit based on the infeasibility to determine this rate.

Fecal Coliform

According to department records this facility has discharged three times during this permitting cycle. The department has reviewed the Fecal data and sampling frequency, and one exceedance occurred for this parameter of 648.8 mg/L. A determination was made to continue with a limit for fecal coliform at 400 (# per 100 ml) with a sampling frequency prior to discharge and once per week during discharge based upon best professional judgement. The department is referencing 40 CFR 409.12 in regard to fecal coliform.

MONITORING REQUIREMENTS

The department requires monitoring, recording, and reporting (NDAC Chapter 33.1-16-01-(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.

The permittee must notify the department prior to any discharge. Approximately one week prior to a planned discharge, a representative pre-discharge grab sample must be collected and analyzed for the parameters listed in Table 5. The pre-discharge sample results must be provided when notifying the department of a planned discharge.

Test Procedures

The collection and transportation of all samples shall conform to EPA preservation techniques and holding times 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

Beneficial Reuse

Wastewater that has met secondary or tertiary treatment standards may be beneficially reused in lieu of discharging. The proposed permit contains conditions for the beneficial reuse of wastewater for irrigation, construction, and oil and gas production. Beneficial reuse parameters are provided in Table 7.

Table 7 – Beneficial Reuse Criteria

Parameter	Beneficial Reuse Discharge Limitations (Daily Max)		Monitoring Frequency		Basis ^{a/}
	Irrigation	Construction	Measurement Frequency	Sample Type	
BOD ₅ (mg/L)	30	30	1 per 14 days	Grab	40 CFR 133.102(a), BPJ
Total Suspended Solids (TSS) (mg/L)	45	100 ^{b/}	1 per 14 days	Grab	40 CFR 133.102(b), BPJ
<i>E. Coli</i> (number/100 mL)	126	126	Weekly	Grab	WQS BPJ
Notes:					
a/	<p>The basis of the effluent limitations is given below:</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 33.1-16-02.1.</p> <p>“BPJ” refers to Best Professional Judgment as determined by the North Dakota Department of Environmental Quality.</p>				
b/	This parameter was determined using BPJ				

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 recommends this permit be issued for a term of five (5) years and shall expire on December 31, 2028.

APPENDIX A – PUBLIC INVOLVEMENT INFORMATION

The department proposes to issue an industrial user wastewater discharge permit to **Associated Potato Growers Inc. – Grafton, ND**. The permit includes wastewater discharge limits and other conditions. This statement of basis describes the facility and the department's rationale for requiring a permit.

The department placed a Public Notice of Draft on **August 11, 2021**, in the **Cavalier Chronicle** 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, 701.328.5240 or by writing to the address listed below:

North Dakota Department of Environmental Quality
Division of Water Quality

3rd Floor Bismarck, ND58503-1324

4201 Normandy Street,

The primary author of this permit and statement of basis is Brady Espe.

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

Public Notice Date: 8/11/2021

Public Notice Number: ND-2021-026

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: 1/25/2021

Application Number: ND0026204

Applicant Name: Assoc Potato Growers Drayton

Mailing Address: 203 E Highway 66, Drayton, ND 58225-0297

Telephone Number: 701.454.3910

Proposed Permit Expiration Date: 9/30/2026

Facility Description

The application is for a potato washing plant. The wash water is contained in a waste stabilization pond located in the SW1/4, Section 23, Township 159 North, Range 51 West. Any discharge would be to an unnamed drainage, a Class III stream. The unnamed drainage flows to the Middle Red River, a Class I Stream.

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. For further information on making public comments/public comment tips please visit: <https://deq.nd.gov/PublicCommentTips.aspx>. 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 13, 2021 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 – DEFINITIONS Standard Permit BP 2019.05.29

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 Environmental Quality, 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^{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 – CALCULATIONS

No calculations were utilized for determining effluent limitations for this facility. 40 CFR Part 133.102, NDAC 33.1-16-02.1, and 40 CFR 40.12 were referenced and implemented as effluent limitations based on Best Professional Judgement.

APPENDIX D – RESPONSE TO COMMENTS

Any comments received during the public comment period will be addressed here.

DRAFT

Permit No: ND0025984
Effective Date: January 1, 2024
Expiration Date: December 31, 2028

AUTHORIZATION TO DISCHARGE UNDER THE
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33.1-16-01 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,

the Associated Potato Growers Inc. – Grafton, ND

is authorized to discharge from its waste stabilization pond

to Grafton storm sewer system, a Class III stream, which eventually leads to the Park River Class II stream.

provided all the conditions of this permit are met.

This permit and the authorization to discharge shall expire at midnight,
December 31, 2028.

Signed this _____ day of _____, _____.

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

BP 2019.05.29

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DEFINITIONS Standard Permit BP 2019.05.29

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OUTFALL DESCRIPTION

Outfall 001. Active. Final Outfall.			
Latitude: 48.403409		Longitude: -97.402761	
Township: 157N		County: Walsh	
Range: 52W		Section: 19	
Receiving Stream: road ditch for Russett Avenue		QQ: CBB	
Classification: Class III			
Outfall Description: The treated effluent flows from the waste stabilization pond, into a drainage ditch, a Class III stream via a pump over the dike on the east edge. The drainage ditch flows into the road ditch along Russett Avenue which leads to Grafton's storm sewer system, a Class III Stream, and eventually the Park River, a Class II Stream. Russett Avenue runs north and south, along the west side of the property. The storm sewer system flows north approximately a mile and a half into the Park River. This system utilizes a "Controlled Discharge" and is deemed to be non-continuous.			

PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
001A	Discharge Monitoring Report	Semiannually	July 31, 2024
Application Renewal	NDPDES Application Renewal	1/permit cycle	December 31, 2028

SPECIAL CONDITIONS

No special conditions have been determined at this time.

I. LIMITATIONS AND MONITORING REQUIREMENTS

A. Discharge Authorization

During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfalls as specified to the following: **Unnamed drainage, a Class III stream.**

No discharge shall occur from the lagoons until all pre-discharge parameters have been reviewed by the department. After the review process has been completed the permittee shall comply with the limitations of this permit.

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

B. Effluent Limitations and Monitoring

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

Table 1: Effluent Limitations and Monitoring Requirements Outfall 001

Parameter	Effluent Limitations			Monitoring Requirements	
	Avg. Monthly Limit	Avg. Weekly Limit	Daily Maximum Limit	Sample Frequency	Sample Type
Biological Oxygen Demand (BOD ₅)	25 mg/l	45	*	Weekly	Grab
Total Suspended Solids (TSS)	30 mg/l	45	*	Weekly	Grab
pH ^a	Shall remain between 6.0 to 9.0 s.u.			Weekly	Grab
Fecal Coliform (number/100 ml)	*	*	400/100 ml	Weekly	Grab
Drain, MGal	*	*	Report Total	1/Event	Calculated

Notes:

- * This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.
- a. The pH, an instantaneous limitation, shall be between 6.0 s.u. and 9.0 s.u. Any single analysis and/or measurement beyond this limitation shall be considered a violation of the conditions of this permit.

Stipulations:

A pre-discharge sample must be taken prior to the start of any discharge. A grab sample shall be tested for BOD₅, TSS, pH, and Fecal Coliform. The pre-discharge sample shall represent the first week discharge sample. An additional grab sample of the actual discharge shall be taken and analyzed on a weekly basis for the duration of the discharge.

The dates of discharge, frequency of analyses, and number of exceedances shall also be included on the DMRs.

BMPs are to be utilized so that there shall be no discharge of floating debris, oil, scum, and other floating materials in sufficient amounts to be unsightly or deleterious, or oil wastes that produce a visible sheen on the surface of the receiving water.

Samples taken in compliance with the monitoring requirements specified in this permit shall be taken prior to leaving company property or entering the receiving stream.

II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2020.10.19

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, 2025, the permittee may elect to electronically submit the following compliance monitoring data and reports instead of mailing paper forms. Beginning December 21, 2025, 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 Environmental Quality
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.

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.

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.

IV. 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.

VI. BENEFICIAL REUSES BP 2015.09.03

A. Irrigation

Only wastewater that has received secondary or tertiary treatment may be used for irrigation provided soil and water compatibility testing confirms the water is suitable for irrigation. Wastewater used for irrigation shall be applied at a rate which would allow complete infiltration and not result in ponding or runoff from the irrigated area.

Agricultural land may be irrigated provided the crop is not used for human consumption. Forage crops used for livestock consumption or pastures irrigated with wastewater shall not be harvested or grazed within 30 days of a wastewater application.

Public properties such as golf courses or parks may be irrigated provided the treated wastewater meets the following quality criteria.

Table 2: Beneficial Reuse Parameters for Irrigation			
Parameter	Limitations (Maximum)	Measurement Frequency	Sample Type
BOD ₅ (mg/l)	30.0	1 per 14 days	Grab
TSS (mg/l)	45.0	1 per 14 days	Grab
<i>E. Coli</i> (number/100 ml)	126	Weekly	Grab

Whenever possible, irrigation shall take place during hours when the public does not have access to the area being irrigated. If the public has constant access to an area, signs must be posted in visible areas during irrigation and for two hours after irrigation is completed. The signs must advise people that the water could pose a health concern and to avoid the irrigated area.

Worker and public contact with treated wastewater should be minimized. Where frequent contact is likely, a higher level of disinfection should be provided such as achieving *E. coli* counts less than 14 colonies per 100 ml.

Avoid application within 100 feet of areas which have unlimited access (i.e., yards) or within 300 feet of potable water supply wells.

Runoff that occurs from irrigated areas shall be monitored at the frequencies and with the types of measurements described in Part I(B).

The permittee shall maintain monitoring records indicating the location and usage (e.g., park or agricultural) of the land being irrigated, the dates irrigation occurred, the amount of wastewater used, and the total flow. In addition, monitoring records must include results from collected samples.

B. Construction

Treated domestic wastewater may be used for construction purposes such as soil compaction, dust suppression and washing aggregate, provided the following conditions are met.

The wastewater intended for use in construction, must at a minimum, receive secondary treatment.

Prior to using treated wastewater, a sample from the prospective source must be tested and meet the criteria set below. In addition, the test results for *E. coli* must be provided to the department prior to use. Results from samples up to two (2) weeks old will be considered valid. The water quality limitations and minimum sampling frequencies recommended for wastewater used in construction are provided in the following table.

Table 3: Beneficial Reuse Parameters for Construction			
Parameter	Limitations (Maximum)	Measurement Frequency	Sample Type
BOD ₅ (mg/l)	30	Monthly	Grab
TSS (mg/l)	100	Monthly	Grab
<i>E. Coli</i> (number/100 ml)	126	Weekly	Grab

In some systems chlorination is available. Chlorination is particularly desirable when frequent worker contact with the treated wastewater is likely or when the public may have constant access to areas where the wastewater is being used. Maintaining a chlorine residual of at least 0.1 mg/l is recommended.

While the conventional methods for treating domestic wastewater are generally effective in reducing infectious agents (bacteria, viruses, parasites) to acceptable levels, direct reuse of treated wastewater can pose a health concern. Additional precautions to consider are:

1. Worker and public contact with treated wastewater should be minimized.
2. Where frequent worker contact is likely a higher level of disinfection should be provided, such as achieving *E. coli* counts less than 14/100 ml.
3. Work closely with the treatment system operator to ensure treated wastewater quality is suitable when it is drawn for construction purposes.
4. Apply the treated wastewater in a manner that does not result in runoff or ponding.

Runoff that occurs from application areas shall be monitored at the frequencies and with the types of measurements described in Part I(B).

The permittee shall maintain monitoring records indicating the location and usage of the land where application occurs, the dates application occurred, the amount of wastewater used, and the total flow. In addition, monitoring records must include results from collected samples.

C. Oil and Gas Production (including Hydraulic Fracturing)

The specific user of the wastewater may determine the specific treatment requirements for receiving wastewater.

The permittee shall maintain monitoring records indicating the specific user, the amount of wastewater used, and the total flow. In addition, monitoring records must include results from collected samples.

D. Other Uses as Approved

The permittee must consult with the department before beneficially reusing wastewater for purposes not identified in this permit.