

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

Public Notice Date: 2/19/2025

### **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**

Public Notice Number: ND-2025-011

Application Date: 10/25/2024 Application Number: ND0020109

Applicant Name: Richardton City Of

Mailing Address: PO Box 343, Richardton, ND 58652-0343

Telephone Number: 701.974.3399

Proposed Permit Expiration Date: 3/31/2030

### **Facility Description**

The application is for the discharge of wastewater from the five waste stabilization ponds which service the City of Richardton. The discharge points are located in the NE 1/4 of Section 32, Township 140N, Range 92W. Any discharge would be from Outfall 001 to an unnamed tributary to the Branch Knife River, a Class III 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.

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 March 21, 2025 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. To request accommodations, contact 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.

**FACT SHEET FOR NDPDES PERMIT  
ND0020109**

**PERMIT REISSUANCE**

**CITY OF RICHARDTON, ND**

**DATE OF THIS FACT SHEET – February 2025**

**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, 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:	Richardton, City of
Facility Name and Address:	City of Richardton Publicly Owned Treatment Works (POTW) PO Box 31 Richardton ND, 58652
Permit Number:	ND0020109
Permit Type:	Minor POTW - Renewal
Type of Treatment:	Facultative Lagoon System
SIC Code:	4952 (Sewerage Systems)
NAICS Code:	221320 (Sewage Treatment Facilities)
Discharge Location:	001: Unnamed Tributary to Branch Knife River, Class III Stream Latitude: 46.90083° Longitude: -102.3078°
Hydrologic Code:	10130201 (Knife)
Population:	830 – Per permit application

**Figure 1:** Aerial View of the City of Richardton POTW (Google Earth October 2022)



**FACILITY DESCRIPTION**

***History***

The City of Richardton POTW was covered under general permit NDG320000 until the POTW was issued individual permit ND0020109 in April 2020. The permit identification number under the general permit was NDG320109. Due to the connection to a significant industrial user (SIU), the POTW does not meet the applicability of the NDG320000 permit. The SIU is permitted under the North Dakota Department of Environmental Quality (department) NDPDES pretreatment program.

***Treatment System***

The facility utilizes a series of facultative lagoons to treat sanitary and process wastewater. Wastewater first enters Cell 1 then flows through manually operated valves to Cell 2 and on to Cell 3. From there, wastewater is pumped through a lift station to Cell 4 or Cell 5 where it can be discharged from outfall 001. The facility discharges intermittently. As provided in the application, influent flow consists of 90% domestic wastewater and 10% industrial wastewater.

Below is a table of the cells and their size:

<b>Cell</b>	<b>Size (acres)</b>
Cell 1	5.10
Cell 2	4.20
Cell 3	4.33
Cell 4	4.56
Cell 5	4.23
<b>Total</b>	<b>22.42</b>

***Outfall Description***

<b>Outfall 001. Active. Final Outfall.</b>			
Latitude: 46.90083°	Longitude: -102.3078°	County: Stark	
Township: 140	Range: 92	Section: 32	QQ: AD
Receiving Stream: Unnamed Tributary to Branch Knife River		Classification: Class III	
Outfall Description: Discharges from this point are from Cells 4 and 5 onto a concrete pad and rip rap, then down a dry creek bed to the Branch Knife River. This facility is an intermittent discharger.			

**PERMIT STATUS**

The department issued the previous permit for the facility on April 1, 2020. The previous permit expires March 31, 2025. The previous permit placed effluent limits on Biological Oxygen Demand (BOD), Total Suspended Solids (TSS), pH, and Oil and Grease. In addition to the effluent limits, the previous permit also placed a once per year monitoring requirement for the following trace elements: total antimony, total arsenic, total beryllium, total cadmium, total chromium, total copper, total lead, total mercury, total nickel, total selenium, total silver, total thallium, total zinc, total cyanide, total phenols, and total hardness.

The facility submitted NDPDES Application Short Form A for the permit renewal. The department received and accepted the application on October 25, 2024. Effluent sample data has been provided to the department through official laboratory reports, discharge monitoring reports (DMRs), and NDPDES Application Short Form A.

### SUMMARY OF COMPLIANCE WITH PREVIOUS PERMIT ISSUED

Three (3) inspections of the facility were conducted during the current permit cycle. The last non-sampling compliance inspection was conducted by the department's Division of Municipal Facilities on June 25, 2024. The facility submitted the Discharge Monitoring Report (DMR) late for the April 1, 2024 to September 30, 2024 monitoring period. The DMR was completed and signed on November 7, 2024. The facility has been in compliance since November 7, 2024. The department's assessment of the compliance is based on review of the facility's Discharge Monitoring Report (DMR) forms and inspections conducted by the department.

#### Past Discharge Data

The concentrations of pollutants from outfall 001 were reported to the department on DMRs. According to department records, the facility last discharged October 23, 2019 through October 27, 2019. A permit authorized sample was collected on October 15, 2019. Analysis of the sample included the parameters BOD<sub>5</sub>, TSS, and pH. Due to an elevated pH result of 9.29 S.U. another sample was collected on October 21, 2019 with a pH result of 9.26 S.U. The data are characterized in Table 2.

**Table 2:** DMR Data for Outfall 001 (October 23, 2019 - October 27, 2019)

Parameter	Range	Average	Permit Limit	Number of Exceedances
BOD <sub>5</sub> (mg/l)	6	6	25 Monthly avg 45 Daily max	0 0
pH (S.U.)	9.26 – 9.29	N/A	6.0 – 9.0	2
TSS (mg/l)	5	5	30 Monthly avg 45 Daily max	0 0
Drain, Total (MGAL)	21	21	N/A	N/A
<b>Notes:</b>				
N/A Not Applicable				
The City of Richardton discharged from Outfall 001 one (1) time between October 23, 2019 through October 27, 2019 for a total of five (5) days.				

### PROPOSED PERMIT LIMITS AND SELF MONITORING REQUIREMENTS

#### Technology-Based Effluent Limits

The City of Richardton is subject to the secondary treatment standards. Federal and state regulations define technology-based effluent limits for municipal wastewater treatment plants. These effluent limits are given in 40 CFR 133 and in NDAC Chapter 33.1-16-01-30. These regulations are performance standards that constitute all known, available, and reasonable methods of prevention, control, and treatment for municipal wastewater.

Below are the technology-based limits specified in 40 CFR Part 133 for BOD<sub>5</sub>, TSS, pH, and Percent Removal:

<b>40 CFR Part 133 Technology-Based Effluent Limits - Municipal Treatment</b>		
<b>Parameter</b>	<b>30 Day Average</b>	<b>7 Day Average</b>
BOD <sub>5</sub>	30 mg/l	45 mg/l
TSS	30 mg/l	45 mg/l
pH	Remain between 6.0 to 9.0 S.U.	
Percent Removal	85% BOD <sub>5</sub> and TSS	

NDAC 33.1-16-01-14(3)(c)(1) allows for adjustment of the secondary treatment criteria to reflect site specific considerations. A BOD<sub>5</sub> 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 department has determined that a 25 mg/l (consecutive 30-day average) for BOD<sub>5</sub> is appropriate for this facility. Similar facilities with waste stabilization ponds have the same limit.

The department acknowledges that 40 CFR 133 requires an 85% removal for BOD<sub>5</sub> and TSS. A representative percent removal rate is dependent upon the influent and effluent samples being taken at approximately the same time and from consistent waste streams. This facility utilizes waste stabilization ponds to treat wastewater which often have variable hydraulic residence times that exceed 30 days. Discharges from this facility are unscheduled and infrequent. Therefore, influent and effluent samples would not be representative of the same wastewater. Due to the infeasibility of determining representative percent removal for waste stabilization ponds, the department has determined not to include the percent removal requirements for the facility. To confirm that this and similar facilities would be meeting the percent removal requirement, the department has calculated an estimated percent removal. The average BOD concentration of domestic wastewater is 220 mg/l (Metcalf & Eddy, Inc., 2<sup>nd</sup> Edition, 1979). Facilities meeting a discharge limitation of 25 mg/l BOD theoretically would be achieving 88% removal efficiency. The department assumes that this facility, meeting the permit limitation of 25 mg/l, would therefore be meeting the percent removal requirement. The average TSS concentration of domestic wastewater is 220 mg/l (Metcalf & Eddy, Inc., 2<sup>nd</sup> Edition, 1979). Facilities meeting the discharge limitation of 30 mg/l TSS theoretically would be achieving 86% removal efficiency. The department assumes that this facility, meeting the permit limitation of 30 mg/l, would therefore be meeting the percent removal requirement. The department is responsible for overseeing the design, construction, and operation of municipal and similar sewerage collection and treatment systems. The department's Division of Municipal Facilities conducts a review of the engineering design of a facility when it is constructed or modified. Reviews include the design capacity and capability of the treatment system to meet discharge requirements, demonstrating the systems removal ability.

### ***Effluent Limitations***

The proposed effluent limitations shall take effect once the permit becomes effective. The limitations apply to outfall 001. The department proposes the following effluent limitations and basis for the limitations which are provided in the table below.

**Table 3: Proposed Effluent Limitations and Basis for Outfall 001**

Parameter	Effluent Limitations			Basis <sup>a</sup>
	Avg. Monthly Limit	Avg. Weekly Limit	Daily Maximum Limit	
BOD <sub>5</sub> (mg/l)	25	45	N/A	40 CFR 133.102(a)(2); NDAC 33.1-16-01-14(3)(c)(1); Previous Permit
TSS (mg/l)	30	45	N/A	40 CFR 133.102(b)(1) & (2); NDAC 33.1-16-01-14(3); Previous Permit
pH (S.U.) <sup>b</sup>	Shall be between 6.0 to 9.0 S.U.			40 CFR 133.102(c); WQS
Oil & Grease Visual <sup>c</sup>	N/A	N/A	Yes/No	WQS; Previous Permit
Oil & Grease (mg/l) <sup>c</sup>	*	*	10.0 mg/l	NDAC 33.1-16-02.1; WQS; Previous Permit
<b>Notes:</b>				
*	This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.			
a.	<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>“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 judgement.</p>			
b.	The pH, an instantaneous limitation, shall be between 6.0 S.U. and 9.0 S.U.			
c.	A daily visual check shall be performed. There shall be no discharge of oily wastes that produce a visible sheen on the surface of the receiving water. If present, a grab sample shall be analyzed for oil and grease to ensure compliance with the concentration limitation.			
<b>Stipulations:</b>				
The permittee must not discharge any floating solids, visible foam in other than trace amounts, or oily wastes that produce a sheen or floating oil in the effluent or on the surface of the receiving water. The discharge shall be visibly inspected for sheen or floating oil. If				



Parameter	Effluent Limitations			Basis <sup>a</sup>
	Avg. Monthly Limit	Avg. Weekly Limit	Daily Maximum Limit	
floating oil or a visible sheen is observed at the discharge point, the department shall be contacted, and grab samples analyzed for oil and grease.				
The limitations for 5-Day BOD and TSS are based on the average of all samples taken to monitor the discharge from a cell. If only one sample is taken, this value shall be used as the average. The limitation for pH applies to each sample taken. All discharges shall be made in such a manner to minimize any possible adverse impacts on the receiving stream and downstream landowners.				

### SELF-MONITORING REQUIREMENTS

#### Pre-discharge Protocol

The permittee must notify the department prior to any lagoon discharge. Approximately two weeks prior to a planned discharge, a representative pre-discharge grab sample must be collected from the lagoon and analyzed for the parameters of BOD<sub>5</sub>, TSS, and pH, listed in Table 4. The pre-discharge sample results must be provided when notifying the department of a planned discharge.

#### Sampling of the Discharge

Sample results for the pre-discharge parameters may represent the first week of discharge. Additional effluent samples must be collected and analyzed after the seventh day of the discharge and weekly thereafter. All effluent samples shall be collected at a point following the treatment system and prior to entering dry creek bed to the unnamed tributary of Branch Knife River. All samples and measurements taken shall be representative of the discharge. Self-monitoring reports shall be submitted on a semi-annual basis with reporting periods from October 1 through March 31 and from April 1 through September 30. Dates of discharge and number of exceedances shall be included on the Discharge Monitoring Reports (DMRs).

**Table 4:** Self-Monitoring Requirements for **Outfall 001**

Effluent Parameter	Frequency	Sample Type <sup>a</sup>
BOD <sub>5</sub> , mg/l	Weekly <sup>b</sup>	Grab
TSS, mg/l	Weekly <sup>b</sup>	Grab
pH, S.U.	Weekly <sup>b</sup>	Instantaneous
Oil and Grease - Visual	Daily	Visual
Oil and Grease, mg/l	Conditional/Weekly	Grab
Metals, µg/l <sup>c</sup>	Yearly	Grab
Total Drain, MGAL <sup>d</sup>	Monthly	Calculated
<b>Notes:</b>		
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 prior to discharge and used for the first week of the discharge. In addition, one (1) grab sample of the actual		

Effluent Parameter	Frequency	Sample Type <sup>a</sup>
discharge shall be taken and analyzed on a weekly basis for each additional week of the discharge, starting on the 8 <sup>th</sup> day of the discharge.		
c. Once each year, a grab sample of the discharge shall be analyzed for total antimony, total arsenic, total beryllium, total cadmium, total chromium, total copper, total lead, total mercury, total nickel, total selenium, total silver, total thallium, total zinc, total cyanide, total phenols, and total hardness.		
d. 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**

All tributaries, minor, or intermittently flowing watercourse, unnamed creeks, or draws not specifically mentioned are classified as class III streams as described in the Standards of Quality for Waters of the State (NDAC 33.1-16-02.1). The facility discharges to an unnamed tributary to Branch Knife River, which is classified as a Class III stream according to the North Dakota Standards of Quality for Waters of the State (NDAC Chapter 33.1-16-02.1), or Water Quality Standards (WQS). Class III streams generally have low average flows with prolonged periods of no flow, which are of limited value for recreation and fish and aquatic biota during these periods.

The WQS 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.

#### **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. 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 (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 33.1-16-02.1 (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.

**SURFACE WATER QUALITY-BASED EFFLUENT LIMITS FOR NUMERIC CRITERIA**

**pH**

Discharges to class III streams shall have an instantaneous limitation between 6.0 s.u. and 9.0 s.u. as per NDAC 33.1-16-02.1-09 Table 1.

**Oil and 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 this type of facility if a visible sheen is detected. Other treatment systems in the state have similar limitations. The department proposes to continue visual checks for sheen with a sampling frequency of daily.

***E. coli***

Effluent limitations for *E. coli* are not included in this permit. The facility discharges to an unnamed tributary of Branch Knife River, a Class III stream. According to NDAC 33.1-16-02.1-09(1)(d), Class III streams must be maintained to protect secondary contact recreation uses (e.g., wading), fish and aquatic biota, and wildlife uses. NDAC 33.1-16-02.1-04(12)(c) defines recreation as "Primary recreational waters are suitable for recreation where direct body contact is involved, such as bathing and swimming, and where secondary recreational activities such as boating, fishing, and wading are involved." NDAC 33.1-16-02.1-09(Table 1) lists *E. coli* as a recreation standard, effective from May 1 through September 30, and was developed as a primary recreational standard. The unnamed tributary to Branch Knife River does not have the potential for primary contact recreation use. Currently there is no numeric secondary recreational use *E. coli* standard listed in the WQS. Waters listed as impaired are to be excluded from this permit coverage.

### **Metals**

No discharge has occurred since the requirement to monitor metals took effect in the current permit (effective April 1, 2020). The department proposes to continue monitoring the discharge for metals based on 40 CFR 403.5, NDAC 33.1-16-01.1-02, and similar permits.

### **Nutrients (Phosphorus and Nitrogen)**

Nutrient monitoring was excluded from the proposed permit. According to the North Dakota Nutrient Reduction Strategy for Surface Waters, the facility would be classified as a Category II facility. The strategy emphasizes that Category II facilities will focus on monitoring, inspections, optimization, and treatment upgrades as needed, without requiring monitoring implementation into permits.

### **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.

### **Biosolids**

Currently the department does not have the authority to regulate biosolids. Therefore, the permittee is required under the Direct Enforceability provision of 40 CFR §503.3(b) to meet the applicable requirements of the regulation.

## **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 lagoon discharge. Approximately two weeks prior to a planned discharge, a representative pre-discharge grab sample must be collected from the final lagoon cell and analyzed for the parameters listed in **Table 4**. The pre-discharge sample results must be provided when notifying the department of a planned discharge.

### **Discharge Monitoring Report (DMR) Requirements**

The proposed permit requires the permittee to monitor discharges and submit discharge monitoring reports (DMRs) to the department. DMRs summarize monitoring results obtained during specified monitoring periods. Dates of discharge and number of excursions must be included on the DMR. If no discharge occurs during a monitoring period, "no discharge" must be reported.

The proposed permit includes specified intervals for submitting semiannual and yearly DMRs (Table 5). DMRs must be submitted electronically to the department in accordance with 40 CFR 127 unless otherwise waived and in compliance with 40 CFR 3. The requirement to submit the 'A' reports semiannually and 'M' reports yearly is similar to other POTWs.

**Table 5:** DMR Submittal Requirements

Outfall	Report Designator	Report Type	Report Interval
001	A	Conventional and Non-Conventional Pollutants, Volume Information	Semiannually
001	M	Trace Elements - Metals	Yearly
<b>Notes:</b> Metals include total antimony, total arsenic, total beryllium, total cadmium, total chromium, total copper, total lead, total mercury, total nickel, total selenium, total silver, total thallium, total zinc, total cyanide, total phenols, and total hardness.			

**Test Procedures**

The collection and transportation of all samples shall conform to EPA preservation techniques and holding times. 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 ten (10) percent of the actual amount.

**OTHER PERMIT CONDITIONS****Pre-discharge Protocol**

Approximately one week prior to discharge, the permittee shall review with the department the following pre-discharge samples: BOD<sub>5</sub>, TSS, and pH prior to discharge. After the review process has been completed the permittee shall comply with the limitations of this permit.

**Sampling of the Discharge**

Sample results for the pre-discharge parameters may represent the first week of discharge. Additional effluent samples must be collected and analyzed after the seventh day of the discharge and every seven days thereafter.

**Federal and State Pretreatment Program Requirements**

Under the terms of the "Memorandum of Understanding between North Dakota Department of Environmental Quality and the United States Environmental Protection Agency, Region 8" (2019), NDDEQ has been delegated authority to administer the Pretreatment Program. Under this delegation of authority, the department issues wastewater discharge permits for significant industrial users discharging to POTWs which have not been delegated authority to issue their own wastewater discharge permits. The requirements for a Pretreatment Program are contained in Title 40, part 403 of the Code of Federal Regulations. Under the requirements of the Pretreatment Program (40 CFR 403.8(f)(1)(iii)), the department is required to approve, condition, or deny new discharges or a significant increase in the discharge for existing significant industrial users (SIUs) (40 CFR 403.8(f)(1)(i)).

**Pretreatment Facility Identification**

A metal finisher facility, Amber Waves, Inc., is located in the City of Richardton service area. Amber Waves, Inc. is a metal finisher, with a standard industrial classification (SIC) 3269. Amber Waves, Inc. produces steel grain bins through a process that includes powder coating, steel fabrication, and metal stamping. Amber Waves, Inc. produces an average of 450 gallons per day of combined process and non-process wastewater. The two waste streams are combined prior to entering the City of Richardton's sanitary system. Amber Waves, Inc. is considered a categorical SIU, subject to the pretreatment standards outlined in 40 CFR 433.

Amber Waves, Inc. is a permitted facility under the department's pretreatment program, with an NDPDES permit (NDP00050).

### **Pretreatment Requirements-Outfall 001**

The permit contains the pretreatment requirements for Industrial Waste Management for Minor POTWs with a Non-Approved Pretreatment Program. The permit shall require the permittee to sample and analyze the effluent from Outfall 001 for those Metals parameters listed in footnote c, of **Table 4**. This requirement is based on 40 CFR 403.5(b).

### **Beneficial Reuse**

The proposed permit contains conditions for the beneficial reuse of wastewater for irrigation, construction, and oil and gas production. Wastewater that has met secondary treatment or tertiary treatment standards may be beneficially reused in lieu of discharging. These conditions were developed by the department using BPJ, such as applying the *E. coli* water quality standard, and are listed in all like permits.

If wastewater is being taken by another party for use, the facility must provide the other party with an analysis of the wastewater. The analysis must include the applicable parameters the facility is responsible for monitoring in accordance with this permit. The facility must keep a record of all wastewater transferred to another entity which shall include the location the water was transferred to, the usage of the water, and the amount transferred.

## **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 the WQS, 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 issue a permit to **Richardton, City of**. The permit includes wastewater 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 19, 2025** in the **Dickinson Press** 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 Environmental Quality  
Division of Water Quality  
4201 Normandy Street, 3<sup>rd</sup> Floor  
Bismarck, ND 58503-1324

The primary author of this permit and fact sheet is Lawrence Hanson.

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

Public Notice Date: 2/19/2025

**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**

Public Notice Number: ND-2025-011  
Application Date: 10/25/2024 Application Number: ND0020109  
Applicant Name: Richardton City Of  
Mailing Address: PO Box 343, Richardton, ND 58652-0343  
Telephone Number: 701.974.3399  
Proposed Permit Expiration Date: 3/31/2030

**Facility Description**

The application is for the discharge of wastewater from the five waste stabilization ponds which service the City of Richardton. The discharge points are located in the NE 1/4 of Section 32, Township 140N, Range 92W. Any discharge would be from Outfall 001 to an unnamed tributary to the Branch Knife River, a Class III 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. 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 March 21, 2025 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. To request accommodations, contact NDDEQ Non-discrimination Coordinator at 701-328-5210 or [deqEJ@nd.gov](mailto:deqEJ@nd.gov). TTY users may use Relay North Dakota at 711 or 1-800-366-6888.



**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  $n^{\text{th}}$  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.

FACT SHEET FOR NDPDES PERMIT ND0020109

RICHARDTON, CITY OF

**EXPIRATION DATE: March 31, 2030**

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

No technical calculations were performed in the development of this permit. All effluent limitations are based upon 40 CFR 133, 40 CFR 403, and NDAC 33.1-16-02.1.

**APPENDIX D – RESPONSE TO COMMENTS**

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

Permit No: ND0020109  
Effective Date: April 1, 2025  
Expiration Date: March 31, 2030

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 City of Richardton  
Richardton Publicly Owned Treatment Works (POTW)  
Richardton, ND

is authorized to discharge from its waste stabilization ponds

to an unnamed tributary to Branch Knife River, 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, 2030.

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

\_\_\_\_\_  
Marty Haroldson  
Director  
Division of Water Quality

BP 2025.02.05

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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.
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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

<b>Outfall 001. Active. Final Outfall.</b>			
Latitude: 46.90083°	Longitude: -102.3078°	County: Stark	
Township: 140	Range: 92	Section: 32	QQ: AD
Receiving Stream: Unnamed Tributary to Branch Knife River		Classification: Class III	
Outfall Description: Discharges from this point are from Cells 4 and 5 onto a concrete pad and rip rap, then down a dry creek bed to the Branch Knife River. This facility is an intermittent discharger.			

## PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
001A	Discharge Monitoring Report	Semiannually	October 31, 2025
001M	Discharge Monitoring Report	Annually	April 30, 2026
Application Renewal	NPDES Application Renewal	1/permit cycle	October 31, 2029
<p>"A" refers to conventional and non-conventional pollutants, and volume information.                      "M" refers to metals</p>			

## 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 outfall as specified to the **Unnamed Tributary of Branch Knife River**, 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
Biochemical Oxygen Demand (BOD <sub>5</sub> )	25 mg/l	45 mg/l	N/A	Weekly	Grab
pH	Shall remain between 6.0 to 9.0 s.u.			Weekly	Instantaneous
Total Suspended Solids (TSS)	30 mg/l	45 mg/l	N/A	Weekly	Grab
Oil & Grease, Visual <sup>b</sup>	Yes/No			Daily	Visual
Oil & Grease (mg/l) <sup>b</sup>	*	*	10 mg/l	Conditional/ Daily	Grab
Total Drain (mgal)	Report Monthly Total			Monthly	Calculated
Metals, (µg/l) <sup>c</sup>	N/A	N/A	N/A	Yearly	Grab

**Notes:**

N/A Not Applicable

\*. 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.

b. The permittee must not discharge any floating solids, visible foam in other than trace amounts, or oily wastes that produce a sheen or floating oil in the effluent or on the surface of the receiving water. The discharge shall be visibly inspected for sheen or floating oil. If present, a grab sample shall be analyzed for oil and grease.

c. Once each year, a grab sample shall be analyzed for total antimony, total arsenic, total beryllium, total cadmium, total chromium, total copper, total lead, total mercury, total nickel, total selenium, total silver, total thallium, total zinc, total cyanide, total phenols, and total hardness.

**Stipulations:**

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 prior to discharge and used for the first week of the 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.

Dates of discharge and number of excursions shall be included on the Discharge Monitoring Reports.

Samples taken in compliance with the monitoring requirements specified in this permit shall be

**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
<p>taken prior to leaving the facility property or entering the receiving stream.</p> <p>The limitations for 5-Day BOD and TSS are based on the average of all samples taken to monitor the discharge from a cell. If only one sample is taken, this value shall be used as the average.</p> <p>All discharges shall be made in such a manner to minimize any possible adverse impacts on the receiving stream and downstream landowners.</p> <p>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. All samples and measurements taken shall be representative of the discharge.</p> <p>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.</p>					

**II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2021.09.09**

**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  
4201 Normandy Street  
Bismarck ND 58503-1324

#### **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.

**V. INDUSTRIAL WASTE MANAGEMENT BP 2023.02.23**  
**Minor POTWs Non-Approved Pretreatment Program Requirements**

**A. General Responsibilities**

The permittee has the responsibility to protect the Publicly Owned Treatment Works (POTW) from pollutants which would inhibit, interfere, or otherwise be incompatible with operation of the treatment works including interference with the use or disposal of municipal sludge.

**B. Pollutant Restrictions**

Pretreatment Standards (40 CFR Section 403.5) developed pursuant to Section 307 of the Federal Clean Water Act (the Act) require that the permittee shall not allow, under any circumstances, the introduction of the following pollutants to the POTW from any source of nondomestic discharge:

1. Any other pollutant which may cause Pass Through or Interference;
2. Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than sixty (60) degrees Centigrade (140 degrees Fahrenheit) using the test methods specified in 40 CFR Section 261.21;
3. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with a pH of lower than 5.0 s.u., unless the treatment facilities are specifically designed to accommodate such discharges;
4. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, or other interference with the operation of the POTW;
5. Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with any treatment process at the POTW;
6. Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds forty (40) degrees Centigrade (104 degrees Fahrenheit) unless the Approval Authority, upon request of the POTW, approves alternate

temperature limits;

7. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through at the POTW;
8. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
9. Any trucked or hauled pollutants, except at discharge points designated by the POTW; and
10. Any specific pollutant which exceeds a local limitation established by the permittee in accordance with the requirements of 40 CFR Section 403.5 (c) and (d).

**C. Approval Authority**

North Dakota was delegated the Industrial Pretreatment Program in September of 2005. The North Dakota Department of Environmental Quality, Division of Water Quality shall be the Approval Authority and the mailing address for all reporting and notifications to the Approval Authority shall be:

ND Department of Environmental Quality  
Division of Water Quality  
4201 Normandy Street  
Bismarck ND 58503-1324

**D. Industrial Categories**

In addition to the general limitations expressed above, more specific Pretreatment Standards have been and will be promulgated for specific industrial categories under Section 307 of the Act (40 CFR Part 405 et. Seq.).

**E. Notification Requirements**

The permittee must notify the Approval Authority, of any new introductions by new or existing industrial users or any substantial change in pollutants from any industrial user within sixty (60) days following the introduction or change. Such notice must identify:

1. Any new introduction of pollutants into the POTW from an industrial user which would be subject to Sections, 301, 306, and 307 of the Act if it were directly discharging those pollutants; or
2. Any substantial change in the volume or character of pollutants being introduced into the POTW by any industrial user;
3. For the purposes of this section, adequate notice shall include information on:
  - a. The identity of the industrial user;
  - b. The nature and concentration of pollutants in the discharge and the average and maximum flow of the discharge to be introduced into the POTW; and
  - c. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from or biosolids produced at such POTW,

4. For the purposes of this section, a significant industrial user shall include:
  - a. Any discharger subject to Categorical Pretreatment Standards under Section 307 of the Act and 40 CFR chapter I, subchapter N;
  - b. Any discharger which has a process wastewater flow of 25,000 gallons or more per day;
  - c. Any discharger contributing five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;
  - d. Any discharger who is designated by the Approval Authority as having a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirements.

**F. Approval Authority Options**

At such time as a specific Pretreatment Standard or requirement becomes applicable to an industrial user of the permittee, the Approval Authority may, as appropriate:

1. Amend the permittee's North Dakota Pollutant Discharge Elimination System (NDPDES) discharge permit to specify the additional pollutant(s) and corresponding effluent limitation(s) consistent with the applicable national Pretreatment Standards;
2. Require the permittee to specify, by ordinance, order, or other enforceable means, the type of pollutant(s) and the maximum amount which may be discharged to the permittee's POTW for treatment. Such requirement shall be imposed in a manner consistent with the POTW program development requirements of the General Pretreatment Regulations at 40 CFR Part 403; and/or,
3. Require the permittee to monitor its discharge for any pollutant which may likely be discharged from the permittee's POTW, should the industrial user fail to properly pre-treat its waste.

**G. Enforcement Authority**

The Approval Authority retains, at all times, the right to take legal action against any source of nondomestic discharge, whether directly or indirectly controlled by the permittee, for violations of a permit, order or similar enforceable mechanism issued by the permittee, violations of any Pretreatment Standard or requirement, or for failure to discharge at an acceptable level under national standards issued by EPA under 40 CFR, chapter I, subchapter N. In those cases where a North Dakota Pollutant Discharge Elimination System (NDPDES) permit violation has occurred because of requirements as necessary to protect the POTW, the North Dakota Department of Environmental Quality and/or Approval Authority shall hold the permittee and/or industrial user responsible and may take legal action against the permittee as well as the industrial user(s) contributing to the permit violation.

**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.

Parameter	Discharge Limitations	Monitoring Frequency	
		Measurement Frequency	Sample Type
BOD <sub>5</sub> (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.

Parameter	Limitations (Maximum)	Measurement Frequency	Sample Type
BOD <sub>5</sub> (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.