

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

Public Notice Date: 11/23/2022

Public Notice Number: ND-2022-023

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: 5/5/2022

Application Number: ND0026140

Applicant Name: Valley City Landfill

Mailing Address: 254 2nd Ave NE, Valley City, ND 58072-0390

Telephone Number: 701.845.4255

Proposed Permit Expiration Date: 12/31/2027

Facility Description

The reapplication is for a sump at the Valley City inert landfill. The discharge consists of precipitation and/or shallow groundwater that may accumulate in the landfill cells during operation. The discharge facility is located in the NE1/4, Section 31, Township 140 North, Range 58 West, and would be to an unnamed tributary of the Sheyenne River.

Tentative Determinations

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

Information Requests and Public Comments

Copies of the application, draft permit, and related documents are available for review. 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 23, 2022 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 Jennifer Skjod, Acting Non-discrimination Coordinator at 701-328-5226 or jskjod@nd.gov. TTY users may use Relay North Dakota at 711 or 1-800-366-6888.

**FACT SHEET FOR NDPDES PERMIT
ND0026140**

PERMIT REISSUANCE

CITY OF VALLEY CITY PUBLIC WORKS – VALLEY CITY LANDFILL

FACT SHEET DATE – NOVEMBER 2022

INTRODUCTION

The Federal Clean Water Act (CWA, 1972, and later amendments in 1977, 1981, and 1987, etc.) established water quality goals for the navigable (surface) waters of the United States. One mechanism for achieving the goals of the CWA is the National Pollutant Discharge Elimination System (NPDES), which the US Environmental Protection Agency (EPA) has oversight authority. In 1975, the State of North Dakota was delegated primacy of the NPDES program by EPA. The North Dakota Department of 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 hereby authorized to take all action necessary or appropriate to secure to this state the benefits of the act and similar federal acts. The department's authority and obligations for the wastewater discharge permit program is in the NDAC 33.1-16 (North Dakota Administrative Code) which was promulgated pursuant to NDCC chapter 61-28 (North Dakota Century Code). The department uses North Dakota Pollutant Discharge Elimination System (NDPDES) as its permitting title.

The following rules or regulations apply to NDPDES permits:

- Procedures the department follows for issuing NDPDES permits (NDAC chapter 33.1-16-01),
- 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 the North Dakota Administrative Code (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 chapter 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:	City of Valley City Public Works
Facility Name and Address:	Valley City Landfill 11490 35 th St. SE, Valley City, ND 58072
Permit Number:	ND0026140
Permit Type:	Minor, Permit Renewal
Type of Treatment:	Sump
SIC Code:	4953
NAICS Code:	562212
Discharge Location:	Unnamed Tributary to the Sheyenne River, Class IA water body 001: T140N, R58W, S31, NE1/4 Latitude: 46.90255 Longitude: -98.04607
Hydrologic Code:	09020204 – Lower Sheyenne



Figure 1. Aerial Photograph of Valley City Landfill, Valley City, ND (ND GIS Hub 11/2022)
FACILITY DESCRIPTION

The reapplication is for an inert landfill which services the city of Valley City and the surrounding area. The plans submitted to the Waste Management Division in July of 1996 show the disposal pit to be roughly circular, with a circumference of about 300 feet. The base of the cell slopes to the south to promote drainage of the water into a sump located at the south end of the cell.

In 2017, the landfill expanded by approximately 33 acres. The drainage from this expansion was directed to the present collection basin. The landfill did not include new services with the expansion. The current size of the landfill, after the inspection, is approximately 78 acres.

The type of material deemed acceptable for disposal in an inert landfill is regulated under the North Dakota's Solid Waste Rules. The Department's Division of Waste Management is responsible for enforcing and administering the Solid Waste Rules. It is required in the permit issued by the Waste Management Division (permit number: 0176) that the inert landfill be used for disposal of "Inert Waste" which is defined as non-putrescible, non-water soluble solid waste that will not in any way form a contaminated leachate. Inert waste includes but is not limited to: (1) construction and demolition material (such as wood, bricks, masonry, concrete (cured) and metal) resulting from the demolition or razing of buildings, roads, and other structures; (2) trees and tree branches; (3) metal wastes that do not contain oils, solvents, PCBs, or other similar materials; (4) bottom ash from coal-fired boilers; and (5) waste coal fines from air pollution equipment.

Outfall Description

Outfall 001 - Active. Final.			
Latitude: 46.90255	Longitude: -98.04607	County: Barnes	
Township: 140N	Range: 58W	Section: 31	QQ: A
Receiving Stream: Unnamed Tributary of the Sheyenne River		Classification: Class III	
Outfall Description: Any discharge would consist of precipitation and/or shallow ground water that may accumulate in the landfill cells during operation. Water from the sump is pumped out of the cell and flows to an unnamed, unclassified tributary west of the old municipal solid waste fill area when a discharge is necessary. The tributary eventually flows to the Sheyenne River, a class IA stream.			

PERMIT STATUS

The department issued the previous permit for this facility on January 1, 2018. The previous permit placed effluent limits on Biochemical Oxygen Demand (BOD₅), pH, Total Suspended Solids (TSS), and Oil & Grease. Monitoring requirements were placed on conventional pollutants, phosphorus, Total Kjeldahl Nitrogen, ammonia and trace elements.

SUMMARY OF COMPLIANCE WITH PREVIOUS PERMIT ISSUED

Department staff last conducted a non-sampling compliance inspection on July 15, 2020. The department's assessment of the compliance is based on review of the facility's Discharge Monitoring Reports (DMRs) and inspections conducted by department staff.

Past Discharge Data

A single discharge occurred at the facility during the previous permit cycle. This discharge took place on October 21, 2019 and lasted for 4 days. This has been substantiated during an inspection by department personnel and from the facility’s Discharge Monitoring Reports (DMRs).

Table 2: DMR Data for Outfall 001 (January 2018 – October 2022)

Parameter	Units	Reported Value	Permit Limit	Number of Exceedances
BOD5	mg/l	2	25	0
TSS	mg/l	12	100	0
pH	S.U.	8.6	6.0 to 9.0	0
Drain	MGAL	2.6	N/A	N/A
Total Phosphorus	mg/l	0.1	-	0
Total Kjeldahl Nitrogen	mg/l	5	-	0
Ammonia as Nitrogen	mg/l	0.2	-	0
Total Hardness	mg/l	Not reported*	-	N/A
Lead	ug/l	0.7	-	0
Iron	ug/l	Not reported*	-	N/A
Magnesium	ug/l	400	-	0
Arsenic	ug/l	6.4	-	0
Silver	ug/l	0.5	-	0
Chromium	ug/l	50	-	0
Cyanide	ug/l	7	-	0
Mercury	ug/l	0.2	-	0
Selenium	ug/l	5	-	0
Cadmium	ug/l	0.5	-	0
Notes: * Not reported due to department error				

PROPOSED PERMIT LIMITS

EFFLUENT LIMITATIONS and MONITORING REQUIREMENTS

The following limitations are based on promulgated guidelines as outlined in section 40 of the Code of Federal Regulations (CFR), the North Dakota Administrative Code (NDAC), the North

Dakota Standards of Quality for Waters of the State (WQS) and Best Professional Judgment (BPJ), as determined by the North Dakota Department of Environmental Quality.

The discharge of wastewater from inert landfills is not regulated by national effluent guidelines, which establish technology-based effluent limitations for various industries. In the absence of a federal standard, limitations may be generated using Best Professional Judgment (BPJ) to ensure reasonable control technologies are used to prevent potential harmful effects of the discharge. In addition, the department must consider and include limitations necessary to protect water quality standards applicable to the receiving waters. The proposed effluent limitations shall take effect once the permit becomes active. The effluent limitations and the basis for the limitations are provided in the table below. These limitations are similar to other industrial discharges that are treated with settling facilities such as low volume waste at steam/electric facilities and surface runoff from coal mining operations. The proposed limitations will become effective once the permit becomes active.

Table 3: Effluent Limitations and Monitoring Requirements for Outfall 001

Effluent Parameter	Daily Maximum	Basis ^a
BOD ₅	25 mg/l	BPJ, Previous Permit
TSS	100 mg/l	BPJ, Previous Permit
Oil and Grease – Visual ^b	N/A	BPJ, Previous Permit
Oil and Grease ^b	10 mg/l	BPJ, Previous Permit
pH	Between 6.0 and 9.0 s.u.	BPJ, Previous Permit
Total Phosphorus	*	BPJ, Previous Permit
Total Kjeldahl Nitrogen	*	BPJ, Previous Permit
Ammonia as Nitrogen	*	BPJ, Previous Permit
Total Hardness	*	BPJ, Previous Permit
Lead	*	BPJ, Previous Permit
Iron	*	BPJ, Previous Permit
Magnesium	*	BPJ, Previous Permit
Arsenic	*	BPJ, Previous Permit
Silver	*	BPJ, Previous Permit
Chromium	*	BPJ, Previous Permit
Cyanide	*	BPJ, Previous Permit
Mercury	*	BPJ, Previous Permit
Selenium	*	BPJ, Previous Permit
Cadmium	*	BPJ, Previous Permit
Flow Rate	*	BPJ, Previous Permit
Total Flow	*	BPJ, Previous Permit
The discharge shall not include wastewater from other processing sources or sanitary facilities.		Previous Permit

Table 3: Effluent Limitations and Monitoring Requirements for Outfall 001

Effluent Parameter	Daily Maximum	Basis ^a
There shall be no direct discharge of solid and/or sludges generated by the treatment facility.		Previous Permit
The permittee shall take the necessary preventative measures to ensure that the discharge does not cause erosion in the area of operation or the bank of the receiving waters and prevent any nuisance conditions from occurring in the receiving waters.		Previous Permit
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.		Previous Permit WQS BPJ
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:		
<p>“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.</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.</p>		
b. There shall be no floating oil or visible sheen present in the discharge. If floating oil or a visible sheen is detected in the discharge, the department shall be contacted and a grab sample analyzed to ensure compliance with the concentration limitation. Any single analysis and/or measurement beyond this limitation shall be considered a violation of the conditions of this permit.		
N/A	Not Applicable	

SELF-MONITORING REQUIREMENTS

All effluent shall be sampled at a point leaving outfall 001 but prior to entering waters of the state.

Table 4: Self-Monitoring Requirements

Effluent Parameter	Frequency	Sample Type ^a
BOD ₅ , mg/l	1/Week	Grab
TSS, mg/l	1/Week	Grab
Oil and Grease – Visual	Daily	Visual ^b
Oil and Grease, mg/l	Conditional	Grab
pH, S.U.	1/Week	Grab
Total Phosphorus, mg/l	Quarterly	Grab
Total Nitrogen, mg/l ^c	Quarterly	Grab
Ammonia as Nitrogen, mg/l	Quarterly	Grab
Total Hardness, mg/l	Annually	Grab
Lead, ug/l	Annually	Grab
Iron, ug/l	Annually	Grab
Magnesium, ug/l	Annually	Grab
Arsenic, ug/l	Annually	Grab
Silver, ug/l	Annually	Grab
Chromium, ug/l	Annually	Grab
Cyanide, ug/l	Annually	Grab
Mercury, ug/l	Annually	Grab
Selenium, ug/l	Annually	Grab
Cadmium, ug/l	Annually	Grab
Flow Rate, gpd	Daily	Instantaneous
Total Flow, Mgal	Quarterly	Calculated
Notes:		
a.	Refer to Appendix B for definitions.	
b.	If a visible sheen or floating oil is observed in the discharge, a grab sample shall be collected and analyzed, and the department shall be contacted.	
c.	Total nitrogen is a combination of nitrate, nitrite, and Total Kjeldahl Nitrogen (TKN).	
The beginning and ending dates of the discharge shall be recorded.		

SURFACE WATER QUALITY-BASED EFFLUENT LIMITS

The *Standards of Water Quality for Waters of the State* (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 tributary the facility discharges into is classified as a Class III stream. Under NDAC 33.1-16-02.1, the quality of the waters in this class shall be suitable for agricultural and industrial uses. Streams in this class generally have low average flows with prolonged periods of no flow. During periods of no flow, they are of limited value for recreation and fish and aquatic biota. The quality of these waters must be maintained to protect secondary contact recreation uses (e.g., wading), fish and aquatic biota, and wildlife uses.

The segment of the Sheyenne River that the facility discharge reaches is listed in the North Dakota 2018 Integrated Section 305(b) Water Quality Assessment Report and Section 303(d) List of Waters Needing Total Maximum Daily Loads (TMDL). The section is listed as impaired based on benthic-macroinvertebrate bioassessments and sedimentation/siltation. The affected use (fish and other aquatic biota) is listed as fully supporting but threatened. The TMDL development status is "low." Currently no TMDL exists for any parameter known to be in the facility's effluent.

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 state 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.

This 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 water quality standards 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 FOR NUMERIC CRITERIA

BOD₅

According to department records, this facility has discharged during the previous permit cycle. No permit limitation exceedances occurred for this parameter. A determination was made to continue with the previous permit limit.

TSS

According to department records, this facility has discharged during the previous permit cycle. No permit limitation exceedances occurred for this parameter. A determination was made to continue with the previous permit limit.

pH

According to department records, this facility has discharged during the previous permit cycle. No permit limitation exceedances occurred for this parameter. A determination was made to continue with the previous permit limits.

OIL & GREASE

The department was unable to review this data as there was no data. Since there has been no sign of a visible sheen this facility has had no need to test for oil & grease. The department will continue with oil & grease using Best Professional Judgment (BPJ).

HUMAN HEALTH

North Dakota's water quality standards include numeric, human health-based criteria that the department must consider when writing NDPDES permits. These criteria were established in

1992 by the U.S. EPA in its National Toxics Rule (40 CFR 131.36). The National Toxics Rule allows states to use mixing zones to evaluate whether discharges comply with human health criteria. The department determined the applicant's discharge is unlikely to contain chemicals regulated to protect human health. The department will re-evaluate this discharge for impacts to human health at the next permit reissuance.

MONITORING REQUIREMENTS

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

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 10 percent of the actual amount.

PERMIT ISSUANCE PROCEDURES

PERMIT ACTIONS

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

The department must be notified, in advance, of any facility expansions, additions, or modifications to increase the amount of discharge. The increase in any effluent limitation is considered a major permit modification. Major modifications require the issuance of a public notice inviting public comment.

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, aquatic life, and the beneficial uses of waters of the State of North Dakota. The department proposes to issue this permit for a term of five (5) years.

APPENDIX A – PUBLIC INVOLVEMENT INFORMATION

The department proposes to reissue a permit to the **City of Valley City Public Works** for its inert landfill operations. 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 the Draft on **November 23, 2022** in the **Valley City Times Record** 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
Bismarck, ND 58503

The primary author of this permit and fact sheet is Julianna Zittleman.

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

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Purpose of Public Notice

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Applicant Name: Valley City Landfill
Mailing Address: 254 2nd Ave NE, Valley City, ND 58072-0390
Telephone Number: 701.845.4255

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APPENDIX B – DEFINITIONS

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 – DATA AND TECHNICAL CALCULATIONS

DFLOW

Critical low flow limitations were not utilized in this permit renewal.

DFLOW 1B3 (ACUTE)	0 CFS	DFLOW 1Q10 (ACUTE)	0 CFS
DFLOW 4B3 (CHRONIC)	0 CFS	DFLOW 7Q10 (CHRONIC)	0 CFS
DFLOW 30B10 (AMMONIA)	0 CFS		

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APPENDIX D – RESPONSE TO COMMENTS

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

DRAFT

DRAFT

Permit No: ND0026140
Effective Date: January 1, 2023
Expiration Date: December 31, 2027

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 Valley City Public Works

is authorized to discharge from the sump at their inert landfill

to an unnamed tributary of the Sheyenne River

provided all the conditions of this permit are met.

This permit and the authorization to discharge shall expire at midnight,
December 31, 2027.

Signed this _____ day of _____, _____.

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

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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.

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FACILITY DESCRIPTION

The inert landfill is located southwest of Valley City in Barnes County approximately one-half mile south and one-quarter mile west of Interstate 94, exit 290. The land description is the NE1/4, Section 31, Township 140N, Range 58W. The total area of the landfill is seventy-eight acres. Approximately thirty-five of those acres are open.

OUTFALL DESCRIPTION

Outfall 001 – Active. Final Outfall. Sump. The location of this outfall is Latitude 46.90255, Longitude -98.04607. Any discharge from the facility would be to an unnamed, unclassified tributary of the Sheyenne River. Tributaries not specifically mentioned or classified in the North Dakota State Water Quality Standards (NDAC Chapter 33.1-16-02.1) are considered Class III streams.

PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Monitoring Period	Submittal Frequency	First Submittal Date
001A	Discharge Monitoring Report (DMR)	Semiannually	Semiannually	July 31, 2023
Application Renewal	NPDES Application Renewal	None	1/permit cycle	June 30, 2027

SPECIAL CONDITIONS

No special conditions have been determined at this time.

I. EFFLUENT 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 following: **Unnamed Tributary of the Sheyenne River, a Class III stream.**

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

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

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Table 1: Effluent Limitations and Monitoring Requirements Outfall 001			
Parameter	Effluent Limitations	Monitoring Requirements	
	Daily Max.	Sample Frequency	Sample Type
Five-Day Biochemical Oxygen Demand (BOD ₅) – mg/l	25	Weekly	Grab
Total Suspended Solids (TSS) – mg/l	100	Weekly	Grab
Oil & Grease – Visual ^a	N/A	Daily	Visual
Oil & Grease – mg/l ^a	10	Conditional	Grab
pH – S.U.	Shall remain between 6.0 to 9.0	Weekly	Grab
Phosphorus, Total – mg/l	*	Quarterly	Grab
Total Nitrogen – mg/l ^c	*	Quarterly	Grab
Ammonia as Nitrogen – mg/l	*	Quarterly	Grab
Hardness, Total – mg/l ^b	*	Annual	Grab
Lead – µg/l ^b	*	Annual	Grab
Iron – µg/l ^b	*	Annual	Grab
Magnesium – µg/l ^b	*	Annual	Grab
Arsenic – µg/l ^b	*	Annual	Grab
Silver – µg/l ^b	*	Annual	Grab
Chromium – µg/l ^b	*	Annual	Grab
Cyanide – µg/l ^b	*	Annual	Grab
Mercury – µg/l ^b	*	Annual	Grab
Selenium – µg/l ^b	*	Annual	Grab
Cadmium – µg/l ^b	*	Annual	Grab
Flow Effluent – gpd	*	Daily	Instantaneous
Drain Total – Mgal	*	Quarterly	Calculated
Notes:			
*. This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.			
a. Best Management Practices (BMPs) are to utilized so that there shall be no discharge of			

Table 1: Effluent Limitations and Monitoring Requirements Outfall 001			
Parameter	Effluent Limitations	Monitoring Requirements	
	Daily Max.	Sample Frequency	Sample Type
	floating debris, oil, scum, or 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. If floating oil or a visible sheen is detected in the discharge, the department shall be contacted and a grab sample analyzed to ensure compliance with the concentration limitation. Any single analysis and/or measurement beyond this limitation shall be considered a violation of the conditions of this permit.		
	b. An analysis for this parameter shall occur during the first discharge of each year. If a discharge does not occur during the year, an analysis is not required.		
	c. Total nitrogen is a combination of nitrate, nitrite, and Total Kjeldahl Nitrogen (TKN).		
	N/A Not Applicable		
	Stipulations:		
	The discharge shall not include wastewater from other processing sources or sanitary facilities.		
	There shall be no direct discharge of solid and/or sludges generated by the treatment facility.		
	The permittee shall take the necessary preventative measures to ensure that the discharge does not cause erosion in the area of operation or the bank of the receiving waters and prevent any nuisance conditions from occurring in the receiving waters.		
	The discharge shall not contain any floating solids, visible foam in other than trace amounts, or oily wastes that produce sheen on the surface of the receiving water.		
	Samples taken in compliance with the monitoring requirements specified in this permit shall be taken prior leaving outfall 001 or entering the receiving stream.		
	The dates of discharge, frequency of analysis, and number of exceedances shall be included on the DMR.		

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:
 - i. General permit reports [e.g., notices of intent (NOI); notices of termination (NOT); no exposure certifications (NOE)];
 - ii. Municipal separate storm sewer system program reports;
 - iii. Pretreatment program reports;
 - iv. Sewer overflow/bypass event reports; and
 - v. Clean Water Act 316(b) annual reports
3. The permittee may seek a waiver from electronic reporting. To obtain a waiver, the permittee must complete and submit an Application for Temporary Electronic Reporting Waiver form (SFN 60992) to the department. The department will have 120 days to approve or deny the waiver request. Once the waiver is approved, the permittee may submit paper versions of monitoring data and reports to the department.
 - i. 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:
 1. Any lagoon cell overflow or any unanticipated bypass which exceeds any effluent limitation in the permit under G. Bypass of Treatment Facilities;
 2. Any upset which exceeds any effluent limitation in the permit under H. Upset Conditions; or
 3. 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.
 1. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of bypass.
 2. 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.

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