

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

Public Notice Date: 10/15/2020

Public Notice Number: ND-2020-027

**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: 7/21/2020

Application Number: ND0024228

Applicant Name: Wilrich LLC

Mailing Address: 17885 Hwy 13 W, Wahpeton, ND 58074

Telephone Number: 701.642.2621

Proposed Permit Expiration Date: 12/31/2025

**Facility Description**

The reapplication is for a 2-cell lagoon system operated by AGCO-Amity JV LLC, a machinery manufacturer. The discharge facility is located in the NE1/4 of the E1/4 of Section 11, Township 132N, Range 48W. Any discharge, would consist of domestic wastewater and stormwater runoff. Wastewater would be discharged from outfall 001 to an unnamed and unclassified tributary of the Wild Rice 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 FWPCA will be protected.

**Information Requests and Public Comments**

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

All comments received by November 16, 2020 will be considered prior to finalizing the permit. If there is significant interest, a public hearing will be scheduled. Otherwise, the Department will issue the final permit within sixty (60) days of this notice. If you require special facilities or assistance relating to a disability, call TDD at 1.800.366.6868.

Permit No: ND0024228  
Effective Date: January 1, 2021  
Expiration Date: December 31, 2025

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,

AGCO-Amity JV, LLC  
Wahpeton, North Dakota

is authorized to discharge from its waste stabilization ponds

to an unnamed tributary of the Wild Rice River

provided all the conditions of this permit are met.

This permit and the authorization to discharge shall expire at midnight,  
December 31, 2025.

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

## OUTFALL DESCRIPTION

<b>Outfall 001. Active. Final Outfall.</b>			
Latitude: 46.2677192687	Longitude: -96.6595230102	County: Richland	
Township: 132	Range: 48	Section: 11	QQ: AAB
Receiving Stream: an unnamed tributary of the Wild Rice River		Classification: Unclassified	
Outfall Description: This is the outfall from Pond 2.			

## PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
001A	Discharge Monitoring Report	Annual	January 31, 2022
Application Renewal	NPDES Application Renewal	1/permit cycle	June 30, 2025

## **I. LIMITATIONS AND MONITORING REQUIREMENTS**

### **A. Discharge Authorization**

During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfalls as specified to the following: **an unnamed and unclassified tributary of the Wild Rice River.**

No discharge shall occur from the lagoons until all pre-discharge parameters have been reviewed by the department. Pre-discharge samples shall be taken for BOD<sub>5</sub>, TSS, pH, and E. coli. This pre-discharge sample shall represent the first week discharge sample. The discharge must commence no later than 30 calendar days from the pre-discharge sampling date. An additional sample shall be collected once per week thereafter for discharges lasting longer than one week. The beginning and ending dates of each discharge shall be recorded.

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:



Effluent Limitations and Monitoring Requirements <b>Outfall 001</b>					
	Effluent Limitations			Monitoring Requirements	
Parameter	Avg. Monthly Limit	Avg. Weekly Limit	Daily Maximum Limit	Sample Frequency	Sample Type
Biochemical Oxygen Demand (BOD <sub>5</sub> )	25.0 mg/l	*	45 mg/l	1/Week	Grab
Total Suspended Solids (TSS)	30.0 mg/l	*	45 mg/l	1/Week	Grab
pH 1/	Shall remain between 6.0 to 9.0 SU			1/Week	Grab
<i>E. coli</i> 2/	126/100 ml	*	409/100 ml	1/Week	Grab
Oil & Grease Visual 3/	*	*	*	Daily	Visual
Oil & Grease 3/	*	*	10 mg/l	Conditional/Weekly	Grab
Flow Effluent, mgd	Report Avg. Monthly Value	*	Report Max. Daily Value	1/Day	Calculated
Total Drain, mgal	*	*	Report Monthly Total	1/Month	Calculated
*. This item for the stated parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.					
1/ The limitation for pH applies to each sample taken. The pH, an instantaneous limitation, shall be between 6.0 s.u. and 9.0 s.u. Any single analysis and or measurement beyond this limitation shall be considered a violation of the conditions of this permit.					
2/ The permittee is required to sample for <i>E. coli</i> . This limitation and monitoring requirement shall be effective for discharges from April 1 through October 31.					
3/ 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.					
Stipulations:  Samples taken in compliance with the monitoring requirements specified in this permit shall be taken prior to leaving the facility property or entering the receiving stream.  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 oily wastes that produce a visible sheen on the surface of the receiving water.					

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

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

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

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

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

**B. Test Procedures**

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

**C. Recording of Results**

Records of monitoring information shall include:

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

**D. Additional Monitoring**

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

**E. Reporting of Monitoring Results**

1. Monitoring results shall be summarized and reported to the department using Discharge Monitoring Reports (DMRs). If no discharge occurs during a reporting period, "No Discharge" shall be reported. The permittee must submit DMRs electronically using the electronic information reporting system unless requirements in subsection 3 are met.
2. Prior to December 21, 2020, the permittee may elect to electronically submit the following compliance monitoring data and reports instead of mailing paper forms. Beginning December 21, 2020, the permittee must report the following using the electronic reporting system:
  - a. General permit reports [e.g., notices of intent (NOI); notices of termination (NOT); no exposure certifications (NOE)];
  - b. Municipal separate storm sewer system program reports;
  - c. Pretreatment program reports;
  - d. Sewer overflow/bypass event reports; and

e. Clean Water Act 316(b) annual reports

3. The permittee may seek a waiver from electronic reporting. To obtain a waiver, the permittee must complete and submit an Application for Temporary Electronic Reporting Waiver form (SFN 60992) to the department. The department will have 120 days to approve or deny the waiver request. Once the waiver is approved, the permittee may submit paper versions of monitoring data and reports to the department.
  - a. One of the following criteria must be met in order to obtain a waiver. The department reserves the right to deny any waiver request, even if they meet one of the criteria below.
    1. No internet access,
    2. No computer access,
    3. Annual DMRs (upon approval of the department),
    4. Employee turnover (3-month periods only), or
    5. Short duration permits (upon approval of the department)

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

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

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

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

### **III. COMPLIANCE RESPONSIBILITIES**

#### **A. Duty to Comply**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

#### **B. Proper Operation and Maintenance**

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

#### **C. Planned Changes**

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

**D. Duty to Provide Information**

The permittee shall furnish to the department, within a reasonable time, any information which the department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.

**E. Signatory Requirements**

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

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

All reports required by the permit and other information requested by the department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

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

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

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

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

1. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The following occurrences of noncompliance shall be included in the oral report to the department at 701.328.5210:
  - a. Any lagoon cell overflow or any unanticipated bypass which exceeds any effluent limitation in the permit under G. Bypass of Treatment Facilities;
  - b. Any upset which exceeds any effluent limitation in the permit under H. Upset Conditions; or
  - c. Violation of any daily maximum effluent or instantaneous discharge limitation for any of the pollutants listed in the permit.

2. A written submission shall also be provided within five days of the time that the permittee became aware of the circumstances. The written submission shall contain:
  - a. A description of the noncompliance and its cause;
  - b. The period of noncompliance, including exact dates and times;
  - c. The estimated time noncompliance is expected to continue if it has not been corrected; and
  - d. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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

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

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

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to any of the following provisions in this section.
2. Bypass exceeding limitations-notification requirements.
  - a. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of bypass.
  - b. Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required under F. Twenty-four Hour Notice of Noncompliance Reporting.
3. Prohibition of Bypass. Bypass is prohibited, and the department may take enforcement action against a permittee for bypass, unless:
  - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - c. The permittee submitted notices as required under the 1. Anticipated Bypass subsection of this section.

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

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

An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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

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

**I. Duty to Mitigate**

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

**J. Removed Materials**

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

**K. Duty to Reapply**

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

**IV. GENERAL PROVISIONS**

**A. Inspection and Entry**

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

**B. Availability of Reports**

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

**C. Transfers**

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

**D. New Limitations or Prohibitions**

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

**E. Permit Actions**

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

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

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

**G. State Laws**

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

**H. Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

**I. Property Rights**

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

**J. Severability**

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

**FACT SHEET FOR NDPDES PERMIT  
ND0024228**

**AGCO-AMITY JV, LLC**

**DATE OF THIS FACT SHEET – October 2020**

**INTRODUCTION**

The Federal Clean Water Act (CWA, 1972, and later amendments in 1977, 1981, and 1987, etc.) established water quality goals for the navigable (surface) waters of the United States. One mechanism for achieving the goals of the CWA is the National Pollutant Discharge Elimination System (NPDES), which the US Environmental Protection Agency (EPA) 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) 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**

<b>Table 1: General Facility Information</b>	
Applicant:	AGCO-Amity JV, LLC
Facility Name and Address:	AGCO-Amity JV, LLC 17855 Hwy 13 W Wahpeton, ND 58074
Permit Number:	ND0024228
Permit Type:	Non-POTW, Renewal
Type of Treatment:	Waste Stabilization Pond System
SIC Code:	3523 – Farm Machinery and Equipment
NAICS Code:	333111 – Farm Machinery and Equipment Manufacturing
Discharge Location:	An unnamed tributary to the Wild Rice River Latitude: 46.2677192687 Longitude: -96.6595230102
Hydrologic Code:	09020105 – Western Wild Rice

**Figure 1: Aerial Photograph of AGCO-Amity JV, LLC – Wahpeton, ND**



## **FACILITY DESCRIPTION**

### ***History***

AGCO-Amity JV, LLC manufactures farm machinery and equipment. Manufactured farm machinery and equipment includes, but is not limited to, primary and secondary tillage equipment.

In 1995, the facility re-installed a tank for phosphating, a process that had not been performed for approximately ten years. The phosphating process was determined to be a New Source and was therefore subject to New Source Performance Standards (NSPS) found in 40 CFR 433 Metal Finishing Point Source Category, Subpart A-Metal Finishing Subcategory and the Standards of Water Quality for the State of North Dakota. The permittee indicated that they discontinued the phosphating process and removed the phosphating tank several years ago. On November 3, 2003 the department approved a Toxic Organic Management Plan for this facility. The department has a copy of the Toxic Organic Management Plan dated September 9, 2010.

The facility previously used a phosphate washing process to prepare parts for painting. This process was eliminated around 2002 and was replaced with the powder coat process. The powder coating process does not use any water, nor generate any wastewater.

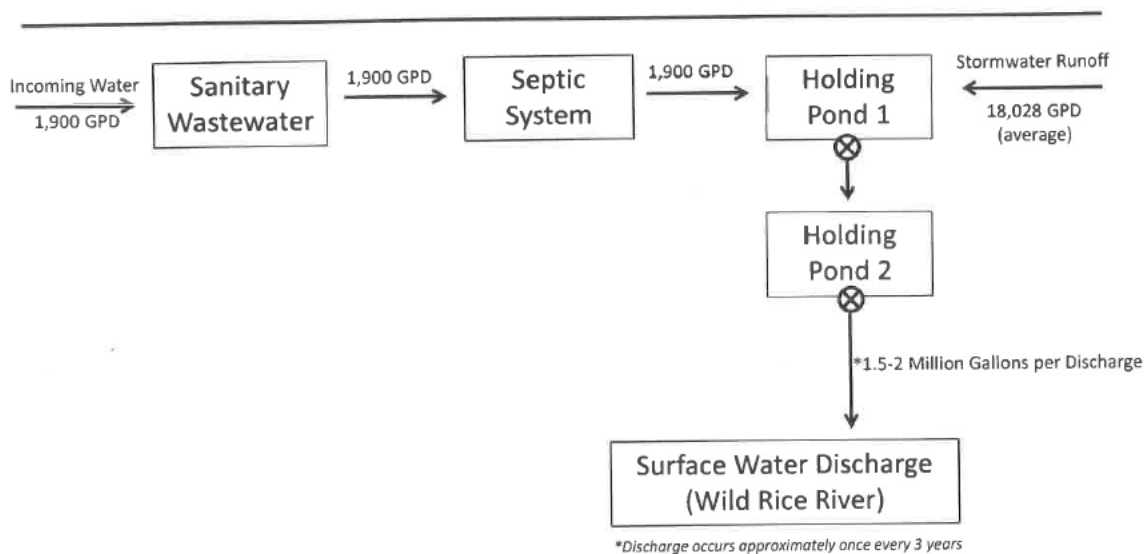
The finishing process is a dry process where parts are first put into an oven, where any cutting oils or residual oils are baked off. Parts are then bead blasted with steel beads to prepare the surface for powder coat painting. After powder coat painting, the parts go into a curing oven. After the curing oven, the parts are placed into a cooling oven. Parts are then assembled after they are cooled.

During the 2016 permit reissuance, the department determined that the facility is no longer subject to the effluent limitations found in 40 CFR 433 Metal Finishing Point Source Category, Subpart A-Metal Finishing Subcategory. This change was due to the facility switching to a dry finishing process in 2002, which does not utilize water.

### ***Treatment System***

Domestic wastewater (1,900 GPD) is routed to a septic tank for treatment then to the facilities pond system for finishing via the lift station. Wastewater is pumped to holding pond 1 (0.76 acres). Stormwater from the facility is also routed to holding pond 1. From holding pond 1, wastewater is transferred to holding pond 2 (0.76 acres). Once the holding ponds are full, the ponds are discharged to an unnamed tributary to the Wild Rice River via discharge point 001. Approximately 4% of wastewater from the facility consists of domestic sewage and approximately 96% of wastewater from the facility consists of stormwater runoff. According to department records, the facility has not discharged since October 2011.

The following treatment system overview was provided with the permit application:

**Wil-Rich, LCC: Water Schematic Flow**

⊗ = Manual valve to activate gravity fed pump

**Outfall Description**

Outfall 001. Active. Final Outfall.			
Latitude: 46.2677192687		Longitude: -96.6595230102	
County: Richland			
Township: 132		Range: 48	
Section: 11		QQ: AAB	
Receiving Stream: An unnamed tributary of the Wild Rice River		Classification: Class III Stream	
Outfall Description: This is the final outfall for treated domestic wastewater and stormwater runoff from Pond 2.			

**PERMIT STATUS**

The department issued the previous permit for this facility on January 1, 2016. The previous permit had effluent limits on the following parameters: Five-Day Biological Oxygen Demand (BOD<sub>5</sub>), Total Suspended Solids (TSS), pH, *E. coli*, and Oil and Grease.

The department has been in contact with AGCO-Amity JV, LLC to obtain information to reissue this permit. The department received EPA applications Form 1, and Form 2E, on July 21, 2020. The application was accepted by the department July 23, 2020. Effluent sample data has been provided to the department through official laboratory reports, discharge monitoring reports, and the permit application Form 2E.

### SUMMARY OF COMPLIANCE WITH PREVIOUS PERMIT ISSUED

The department staff last conducted a non-sampling compliance inspection on June 7, 2018. The facility was found to be missing the DMR for the monitoring period of January 1, 2017 through December 31, 2017 during the inspection. The DMR was received by the department on June 14, 2018, resolving the overdue DMR. The department's assessment of the facility's compliance is based on review of Discharge Monitoring Report (DMR) forms and inspections conducted by the department.

No discharge occurred from AGCO-Amity JV, LLC from January 1, 2016 through December 31, 2019.

#### ***Summary of DMR Data Excursions***

No discharge occurred from AGCO-Amity JV, LLC from January 1, 2016 through December 31, 2019.

### PROPOSED PERMIT LIMITS AND SELF MONITORING REQUIREMENTS

The facility is classified as a non-POTW and is not subject to the secondary treatment standards. Upon review of the facilities waste streams (domestic sewage) and the similarity of the waste stream to publicly owned treatment works (POTWs) the department has determined to incorporate similar effluent limitations to the secondary treatment standards for POTWs.

The secondary treatment standards effluent limitations 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 133:

<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	
Percent Removal	85% BOD <sub>5</sub> and TSS	

NDAC Chapter 33.1-16-01-14 (3)(c)(1) allows for adjustment of the secondary treatment criteria to reflect site specific considerations. A five-day biochemical oxygen demand limit of twenty-five milligrams per liter (consecutive thirty-day average) may be applied in instances in which limits expressed in terms of secondary treatment standards would be impractical or deemed inappropriate to protect receiving waters.

The department proposes BOD<sub>5</sub>, and TSS effluent limitations similar to the secondary treatment standards using best professional judgement.

***Biological Oxygen Demand (BOD<sub>5</sub>)***

The department has reviewed the BOD<sub>5</sub> data and the sampling frequency. No discharge occurred from January 1, 2016 through December 31, 2019. A determination was made to continue with a BOD<sub>5</sub> limit of 25 mg/l (monthly average) based on the previous permit with a sampling frequency of weekly in the proposed permit.

The department proposes a 45 mg/L (daily maximum) limitation based upon Best Professional Judgment (BPJ) and the facility has similar wastewater to facilities covered under 40 CFR 133.

***Total Suspended Solids (TSS)***

The department has reviewed the TSS data and the sampling frequency. No discharge occurred from January 1, 2016 through December 31, 2019. A determination was made to continue with a TSS limit of 30 mg/l (monthly average) with a sampling frequency of weekly in the proposed permit.

The department proposes a 45 mg/L (daily maximum) limitation based upon BPJ and the facility has similar wastewater to facilities covered under 40 CFR 133.

***Discharge Authorization***

During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfalls as specified to the following: **an unnamed tributary of the Wild Rice River.**

No discharge shall occur from the lagoons until all required pre-discharge parameters have been reviewed by the department. Pre-discharge samples shall be taken for BOD<sub>5</sub>, TSS, pH, and *E. coli* (when required). This pre-discharge sample shall represent the first week discharge sample. The discharge must commence no later than 30 calendar days from the pre-discharge sampling date. An additional sample shall be collected once per week thereafter for discharges lasting longer than seven (7) days.

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.

***Effluent Limitations***

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

Table 2: Effluent Limitations for <b>Outfall 001</b>			
	Effluent Limitations		
Parameter	Avg. Monthly Limit	Avg. Weekly Limit	Daily Maximum Limit
Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/l	25.0 mg/l	*	45 mg/l
Total Suspended Solids (TSS), mg/l	30.0 mg/l	*	45 mg/l
pH, SU 1/	Shall remain between 6.0 to 9.0 SU		
<i>E. coli</i> , #/100 ml 2/	126/100 ml	*	409/100 ml
Oil & Grease Visual 3/	*	*	*
Oil & Grease, mg/l 3/	*	*	10 mg/l
Flow Effluent, mgd	Report Avg. Monthly Value	*	Report Max. Daily Value
Total Drain, mgal	*	*	Report Monthly Total
*. This item for the stated parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.			
1/ The limitation for pH applies to each sample taken. The pH, an instantaneous limitation, shall be between 6.0 s.u. and 9.0 s.u. Any single analysis and or measurement beyond this limitation shall be considered a violation of the conditions of this permit.			
2/ The permittee is required to sample for <i>E. coli</i> . This limitation and monitoring requirement shall be effective for discharges from April 1 through October 31.			
3/ 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>  Samples taken in compliance with the monitoring requirements specified in this permit shall be taken prior to leaving the facility property or entering the receiving stream.  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 oily wastes that produce a visible sheen on the surface of the receiving water.			

**Effluent Monitoring**

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



Table 3: Self-Monitoring Requirements for <b>Outfall 001</b>		
<b>Effluent Parameter</b>	<b>Frequency</b>	<b>Sample Type</b>
Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/l	Weekly	Grab
Total Suspended Solids (TSS), mg/l	Weekly	Grab
pH, SU	Weekly	Grab
E. coli, #/100 ml	Weekly	Grab
Oil & Grease Visual	Daily	Visual
Oil & Grease, mg/l	Conditional/Weekly	Grab
Flow Effluent, mgd	Daily	Calculated
Total Drain, mgal	Monthly	Calculated

### **SURFACE WATER QUALITY-BASED EFFLUENT LIMITS**

The North Dakota State Water Quality Standards (NDAC Chapter 33.1-16-02.1) are designed to protect existing water quality and preserve the beneficial uses of North Dakota's surface waters. Wastewater discharge permits must include conditions that ensure the discharge will meet the surface water quality standards. Water quality-based effluent limits may be based on an individual waste load allocation or on a waste load allocation developed during a basin wide total maximum daily load (TMDL) study. TMDLs result from a scientific study of the water body and are developed in order to reduce pollution from all sources.

Currently a TMDL has not been developed for the receiving water body, nor is it listed as impaired under Section 303(d).

#### ***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.

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

### ***pH***

The department has reviewed the pH data and the sampling frequency. No discharge occurred from January 1, 2016 through December 31, 2019. The department proposes to continue with the pH limits from 6.0 to 9.0 based on the NDAC 33.1-16-02.1 with a sampling frequency of weekly in the proposed permit.

### ***E. coli***

The department has reviewed the *E. coli* data and the sampling frequency. No discharge occurred from January 1, 2016 through December 31, 2019.

A determination was made to continue the limit of 126/100 ml (30-day geometric mean) and a 409/100 ml (daily maximum) for *E. coli* based on the current NDAC 33.1-16-02.1 with a sampling frequency of weekly in the proposed permit. The limit for *E. coli* is a seasonal limit that applies from April 1 through October 31.

Utilizing BPJ (previous permit and similar permits), the department has determined to continue with the limitation applying from April 1 through October 31 (one month on each side of the WQS), to ensure much of the recreational season is incorporated to reduce potential human exposure. Under NDAC 33.1-16-02.1, the *E. coli* standard applies from May 1 through September 30.

### ***Oil and Grease-Visual***

The department has reviewed the oil and grease visual requirement and the sampling frequency. No discharge occurred from January 1, 2016 through December 31, 2019. The department proposes to continue with the oil and grease visual requirement of daily and report if present based on the previous permit.

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.

### ***Oil and Grease***

If oil and grease is visually present, then an analysis is required for oil and grease. The department has reviewed the oil and grease data and the sampling frequency. No discharge occurred from January 1, 2016 through December 31, 2019. A determination was made to continue with the oil and grease conditional limit of 10.0 mg/l (daily maximum) based on the previous permit with a sampling frequency of conditional/weekly in the proposed permit.

### ***Human Health***

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. Authority for the Biosolids Program is EPA, permit by rule 40 CFR 503.

***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.

***Other Conditions***

The department proposes no additional or permit specific conditions.

**PERMIT ISSUANCE PROCEDURES**

***Permit Modifications***

The department may modify this permit to impose numerical limits, if necessary to comply with water quality standards for surface waters, with sediment quality standards, or with water quality standards for ground waters, based on new information from sources such as inspections, effluent monitoring, outfall studies, and effluent mixing studies.

The department may also modify this permit to comply with new or amended state or federal regulations.

***Proposed Permit Issuance***

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

## **APPENDIX A - PUBLIC INVOLVEMENT INFORMATION**

The department proposes to reissue a permit to **AGCO-AMITY JV, LLC**. 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 **October 15, 2020** in the **Wahpeton Daily News** to inform the public and to invite comment on the proposed draft North Dakota Pollutant Discharge Elimination System permit and fact sheet.

The Notice –

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

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

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

The primary author of this permit and fact sheet is Patrick Schuett.

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

Public Notice Date: 10/15/2020

Public Notice Number: ND-2020-027

**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: 7/21/2020

Application Number: ND0024228

Applicant Name: Wilrich LLC

Mailing Address: 17885 Hwy 13 W, Wahpeton, ND 58074

Telephone Number: 701.642.2621

Proposed Permit Expiration Date: 12/31/2025

**Facility Description**

The reapplication is for a 2-cell lagoon system operated by AGCO-Amity JV LLC, a machinery manufacturer. The discharge facility is located in the NE1/4 of the E1/4 of Section 11, Township 132N, Range 48W. Any discharge, would consist of domestic wastewater and stormwater runoff. Wastewater would be discharged from outfall 001 to an unnamed and unclassified tributary of the Wild Rice 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 FWPCA will be protected.

**Information Requests and Public Comments**

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

All comments received by November 16, 2020 will be considered prior to finalizing the permit. If there is significant interest, a public hearing will be scheduled. Otherwise, the Department will issue the final permit within sixty (60) days of this notice. If you require special facilities or assistance relating to a disability, call TDD at 1.800.366.6868.

## APPENDIX B – GLOSSARY

### 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.



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

### **DFLOW**

Due to the flow characteristics of this reach of the stream no critical low flows were determined.

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#### **APPENDIX D – RESPONSE TO COMMENTS**

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

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