Permit No.: SD0022489

SOUTH DAKOTA DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

Surface Water Discharge Permit
Authorizing Discharge
Under The South Dakota Surface Water Discharge System

In compliance with the provisions of the South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota, Article 74:52,

the city of Canton

is authorized under this permit to discharge to

the Big Sioux River

from its wastewater treatment facility located approximately ¾ mile east of the city in the North ½ of Section 19, Township 98 North, Range 48 West, in Lincoln County, South Dakota (Latitude 43.298551°, Longitude -96.564847°), in accordance with discharge points, effluent limits, monitoring requirements, and other conditions set forth herein. Authorization is limited to those outfalls specifically listed in the permit. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the South Dakota Water Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

This permit shall become effective [DATE].

This permit and the authorization to discharge shall expire at midnight, [EXPIRATION DATE].

DRAFT

Signed this day of ,

_____

Authorized Permitting Official

Hunter Roberts
Secretary
Department of Agriculture and Natural Resources

TABLE OF CONTENTS

1.0 DEFINITIONS 4

2.0 PERMIT COVERAGE 8

2.1 Permit Transfers 8
2.2 Reopener Provisions 9
2.3 Duty to Reapply 10
2.4 Continuation of the Expired Permit 10
2.5 Property Rights 10
2.6 Permit Actions 11
2.7 Severability 11

3.0 EFFLUENT LIMITS 11

3.1 Description of Discharge Points 11
3.2 Anticipated Bypass Conditions 12
3.3 Sanitary Sewer Overflows (SSOs) 12
3.4 Upset Conditions 12
3.5 Proper Operation and Maintenance 13
3.6 Inspection Requirements 14
3.7 Compliance Schedule 15
3.8 Effluent Limits and Self-Monitoring Requirements – *Outfall 002* 15
3.9 Whole Effluent Toxicity (WET) Testing 19
3.10 Monitoring Procedures 22
3.11 Additional Monitoring by the Permittee 22
3.12 Capacity, Management, Operation, and Maintenance Program 23

4.0 REPORTING & RECORD KEEPING REQUIREMENTS 23

4.1 Reporting of Monitoring Requirements 23
4.2 Noncompliance Reporting Requirements 24
4.3 Records Contents 25
4.4 Signatory Requirements 26
4.5 Retention of Records 26
4.6 Availability of Reports 27
4.7 Duty to Provide Information 27
4.8 Planned Changes 27

5.0 COMPLIANCE REQUIREMENTS 27

5.1 Duty to Comply 27
5.2 Duty to Mitigate 28
5.3 Need to Halt or Reduce Activity Not a Defense 28
5.4 Penalties for Violations of Permit Conditions 28
5.5 Penalties for Falsification of Reports 28
5.6 Oil and Hazardous Substance Liability 28

6.0 INDUSTRIAL WASTES 29

6.1 INDUSTRIAL USERS 29
6.2 PROHIBITED DISCHARGES 29
6.3 CATEGORICAL STANDARDS 30
6.4 LEGAL ACTION 30

7.0 ADDITIONAL PERMIT CONDITIONS 30

7.1 INSPECTION AND ENTRY 30
7.2 REMOVED SUBSTANCES 31

1.0 DEFINITIONS

"30-day (and monthly) Average" means the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.

"7-day (and weekly) Average" means the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. The calendar week that begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.

"Acute Toxicity" occurs when in the LC_{50} test when 50% or more mortality is observed for either species at any effluent concentration which is equivalent to ≥ 1.0 TU_a. Mortality in the control must simultaneously be 10% or less for the effluent results to be considered valid.

"ARSD" means the Administrative Rules of South Dakota. These often referred to as "Standards".

An **"Authorized Release"** is a discharge from a permitted outfall that meets all permit conditions and effluent limits.

"Biosolids" means any sewage sludge or material derived from sludge that can be beneficially used. Beneficial use includes, but is not limited to, land application to agricultural land, forest land, a reclamation site or sale or give away to the public for home lawn and garden use.

"**Best management practices**" or "**BMPs**" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to "waters of the state." 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.

"BOD_5" means Five-Day Biochemical Oxygen Demand. BOD is a measurement of the amount of oxygen utilized by the decomposition of organic material, over a specified time period (usually five days) in a sample.

A **"Bypass"** means the intentional diversion of waste streams from any portion of a treatment facility.

"Chronic Toxicity" occurs when in the IC_{25} test when the survival, growth, or reproduction, as applicable, for either test species, at the effluent dilution(s) designated in this permit, is significantly less (at the 95% confidence level) than that observed for the control specimens.

"Composite Samples" shall be flow proportioned. The composite sample shall contain at least four samples collected over the compositing period. Unless otherwise specified, the time between

the collection of the first sample and the last sample shall not be less than six hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:

1. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;

2. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;

3. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,

4. Continuous collection of sample, with sample collection rate proportional to flow rate.

"Daily Maximum (Daily Max.)" is the maximum value allowable in any single sample or instantaneous measurement.

"Discharge," an addition of any "pollutant" or combination of pollutants to "surface waters of the state" from any "point source".

"DMR" means Discharge Monitoring Report, EPA Form 3320-1, or a report filed electronically by an EPA-approved electronic system, or other forms provided by the Secretary which are used to report sampling data.

"EPA" or **"US EPA"** means United States Environmental Protection Agency.

A **"Grab Sample,"** for monitoring requirements, is a single "dip and take" sample collected at a representative point in the discharge stream.

An **"Industrial User"** is a non-domestic source of pollutants discharged into a publicly owned treatment works.

"Inhibition Concentration, 25% (IC_{25})" is a point estimate of the toxicant concentration that would cause a 25% reduction in a biological measurement (e.g., reproduction, growth), calculated from a continuous model (i.e., Interpolation Method).

An **"Instantaneous Measurement,"** for monitoring requirements, is a single reading, observation, or measurement either taken at the facility or within 15 minutes of the sample.

"Instream Waste Concentration (IWC)" is the concentration of a toxicant in the receiving water after mixing. It is also referred to as the receiving water concentration (RWC).

"Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

1. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

2. Therefore is a cause of a violation of any requirement of the POTW's Surface Water Discharge permit (including an increase in the magnitude or duration of the violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Federal Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

"Lethal Concentration, 50% (LC_{50})" is the toxic or effluent concentration that would cause mortality in 50% of the test organisms over a specified period of time.

"MGD" is the measure of flow rate meaning million gallons per day.

"Mixing Zone (Zone of mixing)" is an area in a stream where an effluent or discharge mixes with the upstream water under ARSD 74:51:01:01. A mixing zone for wastewater discharges to flowing waters is allowed under ARSD 74:51:01:26. Lakes are not allowed a mixing zone under ARSD 74:51:01:27.

"No Observed Effect Concentration (NOEC)" is the highest tested concentration of an effluent or a toxicant that causes no observable adverse effect on the test species (i.e., the highest concentration of toxicant at which the values for the observed responses are not statistically different from the controls). NOEC is determined using hypothesis testing.

"pH" is the measure of the hydrogen ion concentration of water or wastewater; expressed as the negative log of the hydrogen ion concentration. A pH of seven is neutral. A pH less than seven is acidic, and a pH greater than seven is basic.

"PTI" means Preliminary Toxicity Investigation. Up to a 30-day period where the permittee investigates the cause(s) of a whole effluent toxicity exceedance and if the toxicity is known, includes a proposal for its elimination.

A **"Publicly Owned Treatment Works"** or **"POTW"** is any device or system used in the treatment, including recycling and reclamation, of municipal sewage or industrial waste of a liquid nature that is owned by the state or a municipality. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a publicly owned treatment works providing treatment.

"Reasonable Potential (RP)" is the likelihood that an effluent will cause or contribute to an excursion above a water quality standard based on a number of factors, including the use of data (e.g. whole effluent toxicity test data). In the context of this document, references to RP and WET limits include both lethal and sub-lethal effects.

A **"Sanitary Sewer Overflow"** or **"SSO"** is an overflow, spill, release, or diversion of wastewater from a sanitary sewer system. Such term does not include municipal combined sewer overflows or other discharges from a municipal combined storm and sanitary sewer system and does not

include wastewater backups into buildings caused by a blockage or other malfunction of a building lateral that is privately owned. Such term includes overflows or releases of wastewater that reach waters of the state, overflows or releases of wastewater in the state that do not reach waters of the state, and wastewater backups into buildings that are caused by blockages or flow conditions in a sanitary sewer other than a building lateral.

"Secretary" means the Secretary of the South Dakota Department of Agriculture and Natural Resources, or authorized representative.

"Severe Property Damage" is substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that 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.

"Sewage Sludge" is any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes but is not limited to solids removed during primary, secondary or advanced wastewater treatment, scum, septage, portable toilet pumpings, and sewage sludge products. Sewage sludge does not include grit, screenings, or ash generated during the incineration of sewage sludge.

A **"Significant Industrial User"** is defined as an industrial user discharging to a publicly owned treatment works (POTW) that satisfies any of the following:

1. Is subject to Categorical Pretreatment Standards under ARSD Chapter 74:52:10 (a.b.r. 40 CFR 403.6 and 40 CFR chapter I, subchapter N);

2. Discharges an average of 25,000 gallons per day or more of process wastewater to the publicly owned treatment works (excluding sanitary, non-contact cooling water, and boiler blowdown wastewater);

3. Contributes a process wastewater that makes up five % or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works; or,

4. Is designated as such by the Secretary on the basis that the Industrial User has a reasonable potential for adversely affecting the publicly owned treatment works or for violating any pretreatment standard or requirement.

"Surface Water Discharge (SWD) Permitting Program" is the state program that regulates the discharge of pollutants into the state's waters. This is the state's implementation of the federal NPDES program.

"s.u." means "standard units" and is the logarithmic scale pH is reported in.

"Test Acceptability Criteria (TAC)" are specific criteria for determining whether toxicity test results are acceptable, pursuant to EPA's WET test methods in 40 CFR 136 (additional TAC may be established by the Secretary). The effluent and reference toxicant must meet specific criteria as defined in the test method.

"Toxic Unit - Acute (TU_a)" is 100 times the reciprocal of the effluent concentration that causes 50% of the organisms to die in an acute toxicity test ($TUa = 100/LC_{50}$) (see LC_{50}).

"Toxic Unit - Chronic (TU_c)" is 100 times the reciprocal of the effluent concentration that causes no observable effect on the test organisms in a chronic toxicity test ($TUc = 100/IC_{25}$).

"Toxicity Identification Evaluation (TIE)" is a set of site-specific procedures used to identify the specific chemical(s) causing effluent toxicity.

"Toxicity Reduction Evaluation (TRE)" is a site-specific study conducted in a step-wise process to identify the causative agents of effluent toxicity, isolate the source of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in effluent toxicity after the control measures are put in place.

"TSS" means Total Suspended Solids. TSS is a measure of the filterable solids present in a sample.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limits 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.

"Whole Effluent Toxicity (WET)" is the total toxic effect of an effluent measured directly with a toxicity test.

"Whole Effluent Toxicity (WET) Test" is a procedure using living organisms to determine whether a chemical or an effluent is toxic. A toxicity test measures the degree of the effect of a specific chemical or effluent on exposed test organisms.

2.0 PERMIT COVERAGE

2.1 Permit Transfers

1. Coverage under this permit may be transferred to a new permittee if:

    a. The signatory authority notifies the Secretary at least 30 days in advance of the proposed transfer date;

    b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

    c. The new permittee submits a Certification of Applicant form certifying the new permittee is qualified to perform the obligations of a permit holder in accordance with South Dakota Codified Law 1-41-20.

2. The Secretary will notify the existing and new permittees of his or her intent to transfer, modify, or revoke and reissue the permit based on the information received and other permit information.

2.2 Reopener Provisions

This permit may be reopened and modified in accordance with the Administrative Rules of South Dakota (ARSD) Chapter 74:52:04 to include the appropriate effluent limits, compliance schedules, or other requirements if one or more of the following events occurs:

1. Water Quality Standards: The water quality standards of the receiving waters applicable to this permit are modified in such a manner as to require different effluent limits than contained in this permit;

2. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted that calls for different effluent limits than contained in this permit;

3. Effluent Guidelines: Effluent limit guidelines are promulgated or revised for point sources covered by this permit;

4. Total Maximum Daily Load: Additional controls in the permit are necessary to implement a total maximum daily load approved by the Secretary and/or EPA;

5. Noncompliance: The discharger is a significant contributor of pollution to waters of the state, presents a health hazard, or is in noncompliance with the conditions of

6. Whole Effluent Toxicity (WET): This permit may be reopened and modified to include WET limits, a compliance date, a compliance schedule, a change in the WET protocol, additional or modified numerical limitations, or any other conditions related to the control of toxicants if one or more of the following events occur:

    a. Toxicity was detected late in the life of the permit near or past the deadline for compliance.

    b. The TRE results indicate that compliance with the toxic limits will require an implementation schedule past the date for compliance and the Secretary agrees with the conclusion.

    c. The TRE results indicate that the toxicant(s) represent pollutant(s) that may be controlled with specific numerical limits, and the Secretary agrees that numerical controls are the most appropriate course of action.

    d. Following the implementation of numerical control(s) of toxicant(s), the Secretary agrees that a modified WET protocol is necessary to compensate for those toxicants that are controlled numerically.

e. The TIE/TRE reveals other unique conditions or characteristics which, in the opinion of the Secretary, justify the incorporation of unanticipated special conditions in the permit.

7. Chronic Whole Effluent Toxicity (WET): To include chronic WET limits if any other information or data are developed indicating that chronic WET limits are needed. If acceptable to the Secretary, and if in compliance with current regulations, this permit may be reopened and modified to incorporate TIE/TRE conclusion relating to additional numerical limits, a modified compliance schedule, and or modified whole effluent protocol;

8. Pretreatment Program: The permittee is required to develop and implement a pretreatment program, regulating indirect discharges of wastewater into its publicly owned treatment works (POTW); or

9. Other Changes: Other conditions or standards change so that the discharge no longer qualifies for this permit, such as the permittee being designated as a major discharger, changes in necessary influent or effluent pollutant monitoring, additional industrial pretreatment requirements become applicable to the permittee, or other items.

2.3 Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain coverage under a new permit. A **complete** permit application must be submitted at least **180 days** before the expiration date of this permit. Otherwise, the permit **cannot be administratively continued** past the expiration date. Periodically during the term of this permit and at the time of reissuance, the permittee may be requested to reaffirm its eligibility to discharge under this permit.

2.4 Continuation of the Expired Permit

An expired permit continues in full force and effect until a new permit is issued. If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee must submit a **complete** application at least **180 days** before the expiration date of the permit. Otherwise, the permit **cannot be administratively continued** past the expiration date.

2.5 Property Rights

1. The Secretary's issuance of this permit, adoption of design criteria, and approval of plans and specifications does not convey any property rights, any exclusive privileges, any authorization to damage, injure or use any private property, any authority to invade personal rights, any authority to violate federal, state, or local laws or regulations, or any taking, condemnation or use of eminent domain against any property owned by third parties.

2. The Secretary does not warrant that the permittee's compliance with this permit, design criteria, approved plans and specifications, or operation under this permit,

will not cause damage, injury or use of private property, an invasion of personal rights, or violation of federal, state or local laws or regulations. The permittee is solely and severally liable for all damage, injury or use of private property, invasion of personal rights, infringement of federal, state or local laws and regulations, or taking or condemnation of property owned by third parties, that may result from actions taken under the permit.

2.6 Permit Actions

The Secretary may modify, revoke and reissue, or terminate coverage under this permit for cause, including failure to comply with any provision of this permit or any condition imposed by the Secretary upon granting coverage under this permit. 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.

2.7 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.

3.0 EFFLUENT LIMITS

3.1 Description of Discharge Points

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under this permit are in violation of the South Dakota Water Pollution Control Act and could subject the person(s) responsible for such discharge to penalties under Section 34A-2-75 of the Act.

Outfall Number	Description of Discharge Points
002	Any discharge from the 24” pipe that flows from chlorine contact basin to the Big Sioux River (Latitude 43.296218°, Longitude -96.561531°).

If the permittee discharges from an unauthorized location, the permittee **must report the incident to the Secretary within 24 hours of becoming aware**. See **Section 4.2 – Noncompliance Reporting Requirements** for more noncompliance conditions.

3.2 Anticipated Bypass Conditions

1. The permittee may allow anticipated bypasses to occur that do not result in a discharge and will not result in a violation of the effluent limits, but only for essential maintenance to ensure efficient operation.

2. A bypass, other than that described in Paragraph 1 above, is prohibited and the Secretary may take enforcement action against a permittee, unless:

   a. The bypass was unavoidable to prevent loss of life, threat to public health, 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 at least 10 days before the bypass, as required in **Section 4.1 – Reporting of Monitoring Requirements**.

3. The Secretary may approve a bypass, after considering its adverse effects, if the Secretary determines that it will meet the three conditions listed above in Paragraph 2.

4. If the bypass is unanticipated, see **Section 4.2 – Noncompliance Reporting Requirements**.

3.3 Sanitary Sewer Overflows (SSOs)

In case of a SSO, see **Section 4.2 – Noncompliance Reporting Requirements** for reporting requirements.

The Secretary may require additional sampling of a SSO in accordance with **Section 3.8 – Effluent Limits and Self-Monitoring Requirements – *Outfall 002*** to establish whether the discharge constitutes an environmental or human health hazard. If the SSO constitutes a hazard, additional requirements may apply as outlined in **Section 4.2 – Noncompliance Reporting Requirements**.

3.4 Upset Conditions

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limits if the requirements of Paragraph 2 of this section 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 (i.e., permittees will have the opportunity for a judicial determination on any claim of upset only in an

enforcement action brought for noncompliance with technology-based permit effluent limits).

2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a. An upset occurred and the permittee can identify the cause(s) of the upset;

   b. The permitted facility was at the time being properly operated;

   c. The permittee submitted notice of the upset as required under **Section 4.2 – Noncompliance Reporting Requirements**; and,

   d. The permittee complied with mitigation measures required under **Section 5.2 – Duty to Mitigate.**

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

4. Per **Section 4.7 – Duty to Provide Information** the Secretary may request additional sampling during an upset to establish whether the discharge constitutes an environmental or human health hazard. If it does, additional requirements may apply as outlined in **Section 4.2 – Noncompliance Reporting Requirements** at the Secretary's discretion.

5. Any interference (see **Section 1.0 – Definitions**) shall be subject to the upset conditions in Paragraphs 2, 3 and 4 above. Interferences constitute affirmative defense to actions brought for noncompliance if the requirements of Paragraph 2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by interference, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., permittees will have the opportunity for a judicial determination on any claim of interference only in an enforcement action brought for noncompliance).

3.5 Proper Operation and Maintenance

1. The permittee shall at all times properly operate and maintain all facilities and treatment and control systems that are installed or used by the permittee to achieve compliance with the conditions of this permit or other conditions required by the Secretary upon issuance.

2. Proper operation and maintenance may include adequate laboratory controls and appropriate quality assurance procedures.

3. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

4. This may include the maintenance of freeboard levels of lagoons or holding ponds.

3.6 Inspection Requirements

The permittee shall inspect its wastewater treatment facility, outfall structures, and lift stations regularly as outlined below. The inspections shall be conducted to determine if a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection. In addition, the inspections shall be performed to determine if proper operation and maintenance procedures are being undertaken at the wastewater treatment facility and lift stations. The permittee shall maintain a log in either paper or electronic format recording information obtained during inspections. A log shall be kept for the facility and each lift station in accordance with proper record-keeping procedures. The permittee shall make the log(s) available for inspection, upon request, by the Secretary or the US EPA.

1. **Facility Inspections.** The permittee shall inspect the facility and discharge location on at least a **monthly** basis. During a discharge, the permittee shall inspect the facility and discharge location on at least a **daily** basis. At a minimum, the log shall include the following:

    a. Date and time of the inspection;

    b. Name of the inspector(s);

    c. The facility's discharge status;

    d. The measured amount of freeboard or water depth in each pond;

    e. Identification of operational problems and/or maintenance problems;

    f. Recommendations, as appropriate, to remedy identified problems;

    g. A brief description of any actions taken with regard to problems identified; and,

    h. Other information, as appropriate.

2. **Lift Station Inspections.** The permittee shall inspect each lift station on at least a **weekly** basis. The frequency of in person inspection may be reduced at the Secretary's discretion with reasonable justification. The inspections shall be performed to determine if proper operation and maintenance procedures are being undertaken and verify no sanitary sewer overflows (SSOs) are occurring or have occurred. During any SSO, the affected lift station(s) shall be inspected on a **daily** basis. At a minimum, the log shall include the following for each lift station:

    a. Date and time of the inspection;

    b. Name of the inspector(s);

    c. Whether a SSO is occurring or has occurred;

    d. Identification of operational problems and/or maintenance problems;

    e. Cleaning of screenings, if applicable;

    f. Testing of alarms, if applicable;

g. Hour meter readings;

h. Recommendations, as appropriate, to remedy identified problems;

i. A brief description of any actions taken with regard to problems identified; and,

j. Other information, as appropriate.

3.7 Compliance Schedule

This permit does not contain a compliance schedule. Reports of compliance or noncompliance or any progress report must be submitted no later than 14 days following the interim or final compliance date specified in a compliance schedule.

3.8 Effluent Limits and Self-Monitoring Requirements – *Outfall 002*

Upon the effective date of this permit and lasting through the life of the permit, the quality of effluent discharged by the facility shall, as a minimum, be monitored and meet the effluent limits as set forth in the following table. Sampling shall occur at the Outfall 002 discharge structure, unless alternative sampling locations have been approved by the Secretary. The permittee shall report the monitoring results in accordance with **Section 4.1 – Reporting of Monitoring Requirements.**

Effluent Parameter		Effluent Limit and Reporting Values			Monitoring Requirements	
		30-Day Average [1]	7-Day Average [1]	Daily Maximum [1]	Frequency	Sample Type
Five-Day Biochemical Oxygen Demand (BOD_5)		30 mg/L	45 mg/L	--	3 Times/Week [2]	Grab
Total Suspended Solids (TSS)		80 mg/L	120 mg/L	--	3 Times/Week [2]	Grab
Escherichia coli (*E. coli*) [3]	Mar 1 – Nov 30	126 per 100 mL, Geometric Mean	--	235 per 100 mL	3 Times/Week [2]	Grab
Ammonia-Nitrogen (as N) [4, 5]	Jan 1 – Dec 31	Report, mg/L	--	Report, mg/L	3 Times/Week [2, 6]	Grab
	Jan 1 – Jan 31	157 lbs/day	--	157 lbs/day	3 Times/Week [2, 6]	Calculate
	Feb 1 – Feb 29	138 lbs/day	--	138 lbs/day	3 Times/Week [2, 6]	Calculate
	Mar 1 – Mar 31	69 lbs/day	--	120 lbs/day	3 Times/Week [2, 6]	Calculate
	Apr 1 – Apr 30	117 lbs/day	--	117 lbs/day	3 Times/Week [2, 6]	Calculate
	May 1 – May 31	157 lbs/day	--	157 lbs/day	3 Times/Week [2, 6]	Calculate
	Jun 1 – Jun 30	82 lbs/day	--	122 lbs/day	3 Times/Week [2, 6]	Calculate
	Jul 1 – Jul 31	32 lbs/day	--	60 lbs/day	3 Times/Week [2, 6]	Calculate
	Aug 1 – Aug 31	18 lbs/day	--	41 lbs/day	3 Times/Week [2, 6]	Calculate
	Sep 1 – Sep 30	30 lbs/day	--	53 lbs/day	3 Times/Week [2, 6]	Calculate
	Oct 1 – Oct 31	46 lbs/day	--	46 lbs/day	3 Times/Week [2, 6]	Calculate
	Nov 1 – Nov 30	60 lbs/day	--	60 lbs/day	3 Times/Week [2, 6]	Calculate
	Dec 1 – Dec 31	74 lbs/day	--	74 lbs/day	3 Times/Week [2, 6]	Calculate
pH		The pH of the discharge shall not be less than 6.5 s.u. or greater than 9.0 s.u. in any sample.			3 Times/Week [2, 6]	Instantaneous [7]
Total Residual Chlorine		--	--	0.019 mg/L [8]	3 Times/Week [2]	Instantaneous
Acute Whole Effluent Toxicity [9]		--	--	<1.0 TU_a	Quarterly	Grab
Total Recoverable Copper		30.5 µg/L	--	51.7 µg/L	Semi-Annual	Grab

Effluent Parameter	Effluent Limit and Reporting Values			Monitoring Requirements	
	30-Day Average [1]	7-Day Average [1]	Daily Maximum [1]	Frequency	Sample Type
Total Recoverable Mercury	0.8 µg/L	--	1.7 µg/L	Semi-Annual	Grab
Free Cyanide [9]	5.2 µg/L	--	22 µg/L	Semi-Annual	Grab
Total Cyanide [10]	--	--	Report, µg/L	Semi-Annual	Grab
Total Hardness (as $CaCO_3$) [10]	Report Daily Minimum, mg/L			Semi-Annual	Grab
Influent Total Recoverable Copper [10]	--	--	Report, µg/L	Semi-Annual	Grab
Influent Total Recoverable Mercury [10]	--	--	Report, µg/L	Semi-Annual	Grab
Influent Free Cyanide [10, 11]	--	--	Report, µg/L	Semi-Annual	Grab
Influent Total Cyanide [11]	--	--	Report, µg/L	Semi-Annual	Grab
Total Recoverable Cadmium [11]	--	--	Report, µg/L	Annual	Grab
Total Recoverable Selenium [11]	--	--	Report, µg/L	Annual	Grab
Influent Total Recoverable Cadmium [11]	--	--	Report, µg/L	Annual	Grab
Influent Total Recoverable Selenium [11]	--	--	Report, µg/L	Annual	Grab
Water Temperature [11]	Report, °F	--	Report, °F	3 Times/Week [2, 6]	Instantaneous [12]
Flow Rate [11]	Report, MGD	--	Report, MGD	3 Times/Week [2]	Instantaneous
Total Nitrogen (as N) [11]	--	--	Report, mg/L	Once per Discharge	Grab
Total Phosphorus (as P) [11]	--	--	Report, mg/L	Once per Discharge	Grab
Duration of Discharge [11]	Report Monthly Total, Days			Monthly	Calculate
Total Flow [11]	Report Monthly Total, Million Gallons			Monthly	Calculate
No chemicals, such as chlorine, shall be used without submitting a written request for review to the Secretary prior to use.					

[1] See **Section 1.0 - Definitions**.

[2] If the duration of a single, continuous discharge is less than or equal to three days, the permittee shall take one sample per day. For a single, continuous discharge that is greater than three days and less than or equal to seven days, three samples shall be taken during the discharge,

one sample per day. For discharges greater than seven days, three samples shall be taken during the first seven days of the discharge, one sample per day, and then one sample shall be taken per week of discharge after that. All of the samples collected during the 7-day or 30-day period are to be used in determining the averages. The permittee always has the option of collecting additional samples if appropriate.

[3] For *E. coli*, if a minimum of five samples are collected in a calendar month, all of the samples collected are to be used in determining the geometric mean. Samples are to be collected at the same time as BOD_5, TSS, etc. If less than five samples are taken during any calendar month, the daily maximum effluent limit still applies. This sampling protocol for *E. coli* only applies if the discharge occurs between May 1 and September 30. If less than five samples are taken during any calendar month, the Geometric Mean shall be reported as "NODI 9" for "Not Required". The daily maximum effluent limit still applies.

[4] For Ammonia-Nitrogen (as N), if a minimum of five samples are collected in a calendar month, all of the samples collected are to be used in determining the 30-Day Average. If less than five samples are taken during any calendar month, the 30-Day Average shall be reported as "NODI 9" for "Not Required". The daily maximum effluent limit still applies.

[5] The pounds per day shall be calculated for each sample based on the concentration and the flow discharged (in MGD) using the following equation: Q x C x 8.346, where: Q = effluent flow in MGD; C = sample concentration in mg/L.

[6] The pH and temperature of the effluent shall be determined when the ammonia samples are collected.

[7] pH shall be reported to 0.1 s.u. See **Section 3.10 – Monitoring Procedures** for pH monitoring requirements.

[8] SDDANR considers the analytical detection limit for total residual chlorine to be 0.05 mg/L. If the effluent value is less than the analytical detection limit, "below detection level" shall be used for reporting purposes.

[9] See **Section 3.9 – Whole Effluent Toxicity (WET) Testing** for Whole Effluent Toxicity requirements.

[10] SDDANR considers the analytical detection limit for Free Cyanide to be 20 µg/L. If the effluent value is less than the analytical detection limit, "below detection level (NODI B)" shall be used for the 30-day average reporting purposes. If the effluent results are reported as "below detection", report the detection level for the daily maximum.

[11] This parameter shall be monitored and reported but does not have an effluent limit associated with it.

[12] The water temperature of the effluent shall be taken as a field measurement. Measurement shall be made with a mercury-filled, or dial-type thermometer, or a thermistor. Readings shall be reported to the nearest whole °F.

3.9 Whole Effluent Toxicity (WET) Testing

1. WET Testing - Acute Toxicity

Upon the effective date of this permit, the permittee shall, at least **quarterly** during which a discharge occurs, conduct acute static renewal (with renewals every 24 hours), toxicity tests on a **grab** sample of the final effluent. Samples shall be collected on a two-day progression (i.e., if the first sample is on a Monday, during the next sampling period, the sampling shall begin on a Wednesday, etc.). If a single, continuous discharge occurs over two calendar quarters and has a duration less than or equal to 90 days, then only one WET test is required for that discharge.

The Secretary recommends sampling be completed at the beginning of the monitoring period (i.e. if quarterly monitoring, within the first two months of the quarter), thus reserving time for complications (i.e. invalid tests, weather, etc.). Any repeated tests must be started in the same monitoring period. Failure to obtain a valid test will be considered a failure to sample and is a violation of this permit. All sample(s) shall be collected at the outfall(s) as specified in this permit.

Dilution water shall be standard laboratory (reconstituted) with the general characteristics of **very hard** water. This permit does not allow a mixing zone for Acute WET; therefore, IWCs are set at 100% effluent at the end of pipe. The dilution series shall include at least five effluent dilutions and a control. The dilution series for this permit is ***100%, 50%, 25%, 12.5%, 6.25%, and a control***.

The acute static renewal (with renewals every 24 hours) toxicity tests; including the dilution water, reference (control) toxicant and effluent sample shall be conducted in accordance with the procedures, test conditions, and Test Acceptability Criteria (TAC) as set out in the latest revision of "*Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms," Fifth Edition, October 2002, (EPA-821-R-02-012, Table IA,* 40 *CFR 136).*

The permittee shall conduct the acute 48-hour static renewal (with renewals every 24 hours) toxicity test using *Ceriodaphnia dubia* (water flea) using the acute toxicity test method 2002.0 and the acute 96-hour static renewal (with renewals every 24 hours) toxicity test using *Pimephales promelas* (fathead minnow) using acute toxicity test method 2000.0. The above tests shall be conducted at **25° C**.

The use of alternate testing procedures or methods shall be approved in advance by the Secretary (including, but not limited to the use of EDTA, CO_2 overlay, chlorine removal from the effluent sample if the effluent is chlorinated, etc.).

The acute WET limit is $< 1.0\ TU_a$, which is equivalent to $LC_{50} > 100\%$ effluent. Acute test failure is defined as mortality to 50% or more of the test organisms at any effluent dilution. The effluent value must be $< 1.0\ TU_a$ to indicate a passing test. Any value $\geq 1.0\ TU_a$ will constitute a failure. The results shall be reported in TU_a, where $TU_a = 100/LC_{50}$. This permit has additional requirements if any sample is found to be acutely toxic [See *Sections: 3.9 (2), (3), (4), and (5)]*.

WET test data results shall be summarized on the latest revision of the "Region 8 Acute Toxicity Test Report Form", complete lab data packet and the chain of custody shall be submitted along with the completed Discharge Monitoring Report (DMR) for the end of the calendar period during which the WET test was conducted.

2. Accelerated Testing

When the WET limit is exceeded during routine testing, the permittee shall perform an accelerated schedule of WET testing to establish whether a pattern of toxicity exists. There are two specific paths (KNOWN and UNKNOWN) for accelerated testing. They are as follows:

a. If a WET permit limit is exceeded and the source of the toxicity is **KNOWN** (e.g., a temporary plant upset, etc.), the facility shall immediately initiate a preliminary toxicity investigation (PTI). The permittee shall also conduct one additional toxicity test using the same species and test method that failed. **This test shall begin within 14 days of notification/receipt of the test results exceeding the permit limit**. If this additional accelerated test does not exceed WET permit limits, then the permittee may return to their regular testing frequency. If the additional accelerated test exceeds a WET permit limit, then there is considered to be a pattern of toxicity. The permittee must submit a TIE/TRE work plan with a timetable to eliminate the toxicity. This TIE/TRE work plan shall be considered part of the permit.

b. If a WET permit limit is exceeded, and the source of the toxicity is **UNKNOWN**, the facility must immediately initiate a preliminary toxicity investigation (PTI). The permittee also must conduct accelerated testing that shall consist of 12 WET tests conducted at a maximum of four-week intervals over a 12-month period using the same species and test method that failed. The Secretary reserves the right to increase the accelerated testing frequency to bi-weekly upon written notification to the permittee. **Accelerated testing shall begin within 14 days of notification/receipt of the test results exceeding the permit limit.** If none of the additional test exceeds WET permit limit(s), then the permittee may return to their regular testing frequency. If any of the accelerated tests exceed WET permit limit(s), then there is a pattern of toxicity. The permittee must submit a TIE/TRE work plan with a timetable to eliminate the toxicity. This TIE/TRE work plan shall be considered part of the permit.

3. Pattern of Toxicity

There is a pattern of toxicity if any one accelerated WET test exceeds the permit limit or is considered a failure pursuant to the accelerated testing requirements, using a full dilution series and the species found to be most sensitive. A pattern of toxicity may also be established based on all past toxicity failures as a whole using Best Professional Judgment (BPJ) (i.e. failed sample every spring, etc.). The establishment of a pattern of toxicity triggers a PTI and a TIE/TRE.

4. Preliminary Toxicity Investigations (PTI)

Any WET limit violation or an established pattern of toxicity requires the permittee to automatically begin an evaluation of the possible cause(s) of the toxicity. This is the permittee's chance to find the cause of the toxicity and make a proposal for its elimination. A maximum of 30 days is allowed for this evaluation. This period may be extended if extenuating circumstances exist and written approval is granted prior to exceeding 30 days. Close coordination and communication with the Secretary is also required. The results of this investigation will aid in determining the need for further investigations, studies, TIE/TRE, permit modification, and/or enforcement action.

5. Toxicity Identification Evaluations (TIE) and Toxicity Reduction Evaluations (TRE)

   If the PTI cannot determine the cause of the WET failures, then the permittee shall begin the formal TIE/TRE process. A TIE/TRE is done when toxicity is evident based on an established Pattern of Toxicity.

   If the Secretary is requiring a TIE/TRE, the permittee shall be notified in writing. Once a TIE/TRE has begun, the permittee shall submit a TIE/TRE work plan to the Secretary within 30 days following the effective date of the TIE/TRE notification letter. The permittee shall also submit monthly progress reports that will be due by the first day of every month until the TIE/TRE is closed. Once the TIE/TRE has begun, accelerated testing may cease.

   The permittee shall use the most recent editions as guidance as set forth by EPA for the TIE/TRE process and procedures: Methods for Aquatic Toxicity Identification Evaluations, Phase 1, Toxicity Characterization Procedures (EPA/600/6-91/003); Phase 2, Toxicity Identification Procedures (EPA/600/R-92/080); Phase 3, Toxicity Confirmation Procedures (EPA/600/R-92/080); and Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents Phase 1 (EPA/600/6-91/005F).

   If toxicity spontaneously disappears in the midst of the TIE phase, the Secretary may require the permittee to conduct additional accelerated testing to demonstrate that no pattern of toxicity remains. This shall follow the UNKNOWN toxicity path of accelerated testing. If no additional pattern of toxicity is demonstrated, the TIE/TRE will be closed and normal WET testing shall resume.

   TIE/TRE shall be reported on the DMRs for the species that the TIE/TRE is being conducted. If the facility is using NetDMR, "NODI 3 – Special report attached" shall be reported and TIE/TRE shall be typed in the comment section of the electronic DMR.

   A numerical limit, compliance schedule, or an enforcement action may be subsequently imposed on the permittee based off the results of the TIE/TRE and shall be considered part of this permit. The TIE/TRE will not be considered closed until written notification has been received from the Secretary.

3.10 Monitoring Procedures

1. Effluent samples taken in compliance with the monitoring requirements established under this permit shall be collected prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

2. Influent samples shall be representative of the raw influent wastewater before any processes or treatment that could alter the properties of the influent.

3. pH of a sample shall be taken within 15 minutes of sample collection with a pH meter. The pH meter must meet the Secretary's specifications. It must be capable of:

    a. Two-point calibration;

    b. Temperature compensation; and

    c. Reading to two decimal places.

    Additionally, the pH meter must be calibrated daily, **when in use**, with at least two buffers that bracket the expected pH, approximately three s.u. apart. A log of all calibrations must be kept which contains, at a minimum, the following information:

    a. Date and time;

    b. Initials/signature of person calibrating the meter;

    c. Lower buffer reading;

    d. Upper buffer reading;

    e. Temperature of buffers;

    f. Temperature of sample;

    g. Sample reading;

    h. Buffer expiration date; and

    i. Readings shall be recorded to the nearest 0.1 s.u.

4. Monitoring shall be conducted according to test procedures approved under ARSD Section 74:52:03:06 (a.b.r. 40 CFR, Part 136), unless other test procedures have been specified in this permit or approved by the Secretary. Analysis methods shall be sufficiently sensitive to ensure the minimum detection level for a pollutant is below the permit limit. If no sufficiently sensitive method is available, the method with the lowest minimum detection level shall be used.

3.11 Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit at the designated points, using test procedures approved under ARSD Section 74:52:03:06 (a.b.r. 40 CFR 136) or as specified in this permit, the results of this monitoring shall be used in determining compliance with this permit and reported to the Secretary.

3.12 Capacity, Management, Operation, and Maintenance Program

In the event that the Secretary notifies the permittee of the need to develop a capacity, management, operation, and maintenance program in order to address, reduce, or eliminate the frequency of SSOs and capacity issues, the permittee shall develop and submit the program to the Secretary. The program shall, at a minimum, address the following areas:

1. Sewer management program: This program includes personnel organizational structure, training, communication information systems, noncompliance notification program, and other appropriate items;

2. Collection system operation program: This program includes operational budgeting, monitoring, safety, emergency preparedness and response, pump stations, operational recordkeeping, and other appropriate items;

3. Collection system maintenance program: This program includes maintenance budgeting, planned and unplanned maintenance; sewer cleaning; maintenance recordkeeping, parts and equipment inventory, and other appropriate items; and

4. Sewer system capacity evaluation: The capacity evaluation includes the following:

    a. System inventory (sewer locations, sizes, slopes, materials, age, condition, etc.);

    b. Identification of problem areas (overflows, surcharged lines, basement backups, etc.);

    c. Capacity evaluation of problem areas (utilizing flow and precipitation records, infiltration and inflow investigation, manhole and pipe inspections and televising, smoke and dye testing, and building inspections); and

    d. Sewer rehabilitation recommendations.

5. Timelines: This program shall identify timelines and specific dates for completing any identified changes or improvements.

6. Secretary Approval: The permittee shall submit the program to the Secretary for approval. Upon approval, the permittee shall implement the program.

4.0 REPORTING & RECORD KEEPING REQUIREMENTS

4.1 Reporting of Monitoring Requirements

1. Effluent monitoring results obtained during the previous month shall be summarized for each month, reported on separate Discharge Monitoring Report (DMR) Forms (as defined in **Section 1.0 - Definitions**) designated as Outfall 002A, and submitted to the Secretary via Network Discharge Monitoring Report (NetDMR) forms on a **monthly** basis.

2. Quarterly WET monitoring results obtained during the previous quarter shall be summarized for the last quarter, reported on separate DMR Forms designated as Outfall 002W, and submitted to the Secretary via NetDMR on a **quarterly** basis.

3. Semi-annual metals monitoring results obtained during the previous six months shall be summarized for each six months, reported on separate DMR Forms designated as Outfall 002S, and submitted to the Secretary via NetDMR on a **semi-annual** basis.

4. Annual metals monitoring results obtained during the previous year shall be summarized for each year, reported on separate DMR Forms designated as Outfall 002M, and submitted to the Secretary via NetDMR on an **annual** basis.

5. If the permittee knows in advance of the need for an **anticipated bypass**, it shall submit prior notice to the Secretary at least **10 days** before the date of the bypass via NPDES eReporting Tool – SewerOverflow (NetSSO).

6. All reports, unless otherwise specified, must be submitted **no later than the 28th day of the month** following the completed reporting period. If no discharge occurs during the reporting period, "no discharge" shall be reported on the DMR.

7. In accordance with SDCL 1-41-27, the Secretary is authorized to accept a document with an electronic signature. The Secretary shall provide for the authenticity of each electronic signature by adhering to any standards established by the South Dakota Bureau of Information and Telecommunications pursuant to SDCL 53-12-47 and 53-12-50 or any other standards established by rules promulgated pursuant to SDCL Chapter 1-26.

4.2 Noncompliance Reporting Requirements

1. Any possible or actual endangerment to health or the environment shall be reported as soon as possible, but no later than 24 hours after becoming aware of the circumstances as follows:

   a. During regular business hours (Monday – Friday, 8:00 a.m. - 5:00 p.m. Central Time), the report shall be made at (605) 773-3351.

   b. Outside of normal business hours, the permittee shall contact the South Dakota Emergency Management at (605) 773-3231.

2. The permittee shall submit notice of an unanticipated bypass to the Secretary by the first workday (Monday – Friday, 8:00 a.m. – 5:00 p.m. Central Time) following the day the permittee became aware of the circumstances at (605) 773-3351 or via email at SWDPermits@state.sd.us.

3. Noncompliance events that do not meet the conditions above shall be reported to the Secretary within 24 hours from the time the permittee becomes aware of the circumstances at (605) 773-3351 or via email at SWDPermits@state.sd.us.

4. The Secretary may require the permittee to notify the general public or downstream users that could be or will be impacted by the noncompliance event. If required, the

permittee shall notify the public and/or downstream users as soon as possible, but in no case more than 24 hours after the noncompliance event began.

5. In addition to verbal or electronic notification, the permittee shall submit a written report of the circumstances regarding the noncompliance to the Secretary.

   a. Reports shall be submitted in accordance with **Section 4.1 – Reporting of Monitoring Requirements**.

   b. The written submission shall contain:

      i. A description of the event and its cause;

      ii. The period of the event, including exact dates and times;

      iii. Where the wastewater was discharged;

      iv. The estimated time the event is expected to continue if it has not been corrected;

      v. Any adverse effects, such as fish kills;

      vi. If public notification was required, describe how the public was notified of the discharge; and

      vii. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the event.

   c. If the event was deemed an endangerment to health or the environment, the written report shall be submitted **within five days** of the time the permittee first became aware of the circumstances.

   d. For all other noncompliance events. the written report shall be submitted by **the 28th day of the following month**. The Secretary may require a written report to be submitted sooner or may require additional information as needed.

   e. For SSOs and bypasses, reports submitted via NetSSO within the above specified timeframes fulfill the requirements of this section.

4.3 Records Contents

Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;

2. The initials or names of the individuals who performed the sampling or measurements;

3. The dates analyses were performed;

4. The time analyses were initiated;

5. The initials or names of individuals who performed the analyses;

6. References and written procedures, when available, for the analytical techniques or methods used; and,

7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

4.4 Signatory Requirements

1. All permit applications, reports or information submitted to the Secretary shall be signed and certified by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Secretary shall be signed by a person described in Paragraph 1 of this section or by a duly authorized representative of that person. A person is a duly authorized representative only if:

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

   b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of superintendent or equivalent responsibility, or an individual or position having overall responsibility for environmental matters. A duly authorized representative may be either a named individual or any individual occupying a named position.

3. If an authorization under Paragraph 2.a. above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the Secretary.

4. Any person signing a document under this section shall include 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.

4.5 Retention of Records

1. The permittee shall retain records of all monitoring information and other data required by this permit. This includes:

   a. Data collected on site;

   b. Copies of all DMR Forms;

   c. A copy of the permit;

   d. All calibration and maintenance records;

e. All original strip chart recordings for continuous monitoring instrumentation;

f. Copies of all other reports required by this permit; and

g. Records of all data used to complete the application for this permit.

2. This information must be retained for a period of at least **three years** (five years for sewage sludge activities, including land application) from the date of the sample, measurement, report, or application. This period may be extended by request of the Secretary at any time. Data collected on site, copies of DMRs, and a copy of this permit must be maintained on site during the duration of the permitted activity.

4.6 Availability of Reports

Except for data determined to be confidential under ARSD Section 74:52:02:17, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of the Secretary. The name and address of the permittee, permit applications, permits, and effluent data shall not be considered confidential.

4.7 Duty to Provide Information

1. The permittee shall furnish to the Secretary, within a reasonable time, any information the Secretary 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 Secretary, upon request, copies of records required to be kept by this permit.

2. If the permittee becomes aware that it failed to submit any relevant facts in a permit application form or submitted incorrect information in a permit application form or any report to the Secretary, it shall promptly submit such facts or information.

4.8 Planned Changes

The permittee shall give notice to the Secretary as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutant discharged or could result in noncompliance with permit conditions. This notification also applies to pollutants that are not subject to effluent limits or other notification requirements in this permit.

5.0 COMPLIANCE REQUIREMENTS

5.1 Duty to Comply

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the South Dakota Water Pollution Control Act and the federal Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application (a violation of a condition of this permit is subject to SDCL Section 34A-2-75).

5.2 Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any wastewater discharge and/or sludge disposal or reuse in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

5.3 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.

5.4 Penalties for Violations of Permit Conditions

Any person who violates a permit condition is in violation of the provisions of SDCL 34A-2-36 and is subject to penalties under SDCL 34A-2-75. In addition to a jail sentence authorized by SDCL 22-6-2, such violators are subject to a criminal fine not to exceed ten thousand dollars per day of violation. The violator is also subject to a civil penalty not to exceed ten thousand dollars per day of violation, or for damages to the environment of this state. Except as provided in **Section 3.3 – Upset Conditions**, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

5.5 Penalties for Falsification of Reports

1. Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, is in violation of the provisions of SDCL 34A-2-77, and is subject to penalties under SDCL 34A-2-75.

2. Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit is in violation of the provisions of SDCL 34A-2-77, and is subject to penalties under SDCL 34A-2-75.

3. In addition to a jail sentence authorized by SDCL 22-6-2, such violators are subject to a criminal fine not to exceed ten thousand dollars per day of violation. The violator is also subject to a civil penalty not to exceed ten thousand dollars per day of violation, or for damages to the environment of this state.

5.6 Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the Secretary from taking any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to that the permittee is or may be subject under Section 311 of the Federal Clean Water Act.

6.0 INDUSTRIAL WASTES

6.1 Industrial Users

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

2. During the life of the permit, the permittee shall conduct an industrial waste survey within **90 days of the effective date of this permit** to identify the character and volume of pollutants from each significant industrial user, as well as documenting production data. The permittee shall notify the Secretary of any new introductions by new or existing industrial users or any substantial change in pollutants from any industrial user. Such notice must contain the information described in Paragraph 3 below and be submitted to the Secretary no later than 60 days following the introduction or change.

3. The permittee shall provide adequate notice to the Secretary of any substantial change in the volume or character of pollutants being introduced into the POTW by any other industrial users. For the purposes of this section, adequate notice shall include information on:

    a. The quality and quantity of effluent to be introduced into the POTW; and,

    b. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

6.2 Prohibited Discharges

These prohibitions apply to each industrial user introducing pollutants into a POTW whether or not the industrial user is subject to other National Pretreatment Standards or any national, state, or local pretreatment requirements. Under no circumstances shall the permittee allow the introduction of the following pollutants to the POTW from any source of nondomestic discharge:

1. Any pollutant(s) which cause pass through or interference;

2. Pollutants that create a fire or explosion hazard in the POTW, including but not limited to waste streams with a closed cup flashpoint of less than 60°C (140°F) using the test methods specified in ARSD Section 74:28:22:01 (a.b.r. 40 CFR 261.21);

3. Pollutants that will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 s.u. or greater than 12.5 s.u.;

4. Solid or viscous pollutants in amounts that will cause obstruction to the flow in the POTW, or other interference with the operation of the POTW;

5. Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration that will cause interference with the POTW;

6. Heat in amounts that will inhibit biological activity in the POTW resulting in interference but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40°C (104°F);

7. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

8. Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and

9. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

6.3 Categorical Standards

In addition to the general limits expressed above, more specific pretreatment limits have been promulgated for specific industrial categories under Section 307 of the Act (see ARSD, Chapter 74:52:10, a.b.r. 40 CFR Subchapter N, Parts 405 through 471, for specific information).

6.4 Legal Action

The Secretary retains the right to take legal action against the industrial user and/or the permittee, in those cases where a permit violation has occurred because of the failure of an industrial user to discharge at an acceptable level.

7.0 ADDITIONAL PERMIT CONDITIONS

7.1 Inspection and Entry

The permittee shall allow the Secretary or EPA, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the South Dakota Water Pollution Control Act, any substances or parameters at any location.

7.2 Removed Substances

1. Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard in accordance with applicable requirements of SDCL 34A-2, -6, and -11.

2. If sludge disposal is necessary, the permittee shall submit to the Secretary a sludge disposal plan for review and approval prior to the removal and disposal of sludge. The permittee shall not dispose of sludge without the Secretary's approval. The permittee shall submit sludge monitoring results on forms specified by the Secretary.