



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

February 22, 2024

DeMarys Mitchell, Owner
4-Way Dairy
493 NM 467
Portales, NM 88130

RE: Draft Discharge Permit Renewal, DP-1245, 4-Way Dairy

Dear DeMarys Mitchell:

The New Mexico Environment Department (NMED) hereby provides notice to you of the proposed approval of Ground Water Discharge Permit Renewal, DP-1245, (copy enclosed), pursuant to 20.6.2.3108.H NMAC. NMED will publish notice to the public of the availability of the draft Discharge Permit in the near future and will forward a copy of that notice to you.

- NMED requires the permittee to develop a corrective action plan (CAP) to correct the failures and non-compliance issues of the previous discharge permit pertaining to ineffective groundwater monitoring wells, exceedances of permitted maximum daily discharge volumes, insufficient impoundment capacity and ability to maintain freeboard, as well as data collected from on-site monitoring wells documenting groundwater contamination attributed to the land application areas at this dairy facility.
- Financial assurance is now being required for facilities that are under abatement and/or corrective action plans to address groundwater contamination. The financial assurance conditions are in B103.C through G in the draft discharge permit

Prior to making a final ruling on the proposed Discharge Permit, NMED will allow 30 days from the date the public notice is published in the newspaper for any interested party, including the Discharge Permit applicant, i.e., yourself, to submit written comments and/or a request a public hearing. Written comments and/or hearing requests for dairy facilities shall be postmarked on or before the end of the comment period, and submitted to the Ground Water Quality Bureau at the address below.

Pursuant to 20.6.2.3108.K NMAC, requests for a hearing shall set forth the reasons for a hearing. For a dairy facility Discharge Permit that includes additional conditions pursuant to 20.6.6.10.H NMAC, the request for hearing shall identify the conditions being disputed, and shall identify the specific reasons said conditions are being disputed. Hearing requests that do not meet the requirements of 20.6.2.3108.K NMAC and 20.6.6.15 NMAC are subject to denial by the Secretary. Hearings are presided over by the Secretary or a hearing officer appointed by the Secretary.

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Ground Water Quality Bureau | 1190 Saint Francis Drive, PO Box 5469, Santa Fe, New Mexico 87502-5469

Telephone (505) 827-2900 | www.env.nm.gov/gwqb/

Please contact me at 505-819-1219 / amanda.otieno@env.nm.gov or acs.general@env.nm.gov with questions or concerns. Written comments and/or a written request for hearing must be received, or the draft Discharge Permit will become final. Thank you for your cooperation during the review process.

Sincerely,

Amanda Otieno
Water Resource Professional

Enc: Draft Discharge Permit Renewal, DP-1245

cc: Eric Conklin, consultant, econklin@enviroag.com
Jaben Richards, ACS manager, jaben.richards@env.nm.gov
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Draft: February 22, 2024

**DISCHARGE PERMIT – RENEWAL
EXISTING DAIRY FACILITY with a LAND APPLICATION AREA
Issued under 20.6.2 and 20.6.6 NMAC**

Facility Name: 4-Way Dairy
Discharge Permit No: DP-1245
Facility Location: 493 NM 467
Portales, NM 88130
Sections 29, 30, and 31, Township 1 North, Range 35 East

County: Roosevelt County
Permittee Name: DeMarys Mitchell
Mailing Address: 493 NM 467
Portales, NM 88130

Permitting Action: Renewal
Source Classification: Agriculture- Dairy

Permit Issuance Date: DATE
Permit Expiration Date: DATE

NMED Permit Contact: Amanda Otieno
Telephone Number/Email: (505) 819-1219/ amanda.otieno@env.nm.gov
Main Bureau/Section Contact (505) 827-2900 / acs.general@env.nm.gov

JUSTIN BALL
Chief, Ground Water Quality Bureau

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PART A **GENERAL INFORMATION**

A100 **Introduction**

The New Mexico Environment Department (NMED) issues this Discharge Permit Renewal (Discharge Permit), **DP-1245**, to DeMarys Mitchell (Permittee) pursuant to the New Mexico Water Quality Act (WQA), NMSA 1978, §§ 74-6-1 through 74-6-17, and the New Mexico Ground and Surface Water Protection Regulations, 20.6.2 NMAC and the Supplemental Permitting Requirements for Dairy Facilities (Dairy Rule), 20.6.6 NMAC. NMED's purpose in issuing this Discharge Permit is to control the discharge of water contaminants from 4-Way Dairy (dairy facility) for the protection of groundwater and those segments of surface water gaining from groundwater inflow, for present and potential future use as domestic and agricultural water supply and other uses, and to protect public health.

The Permittee is discharging up to 100,000 gallons per day (gpd) of effluent from 4-Way Dairy. This discharge or leachate may move directly or indirectly into groundwater of the State of New Mexico which has an existing concentration of 10,000 milligrams per liter (mg/L) or less of total dissolved solids (TDS) within the meaning of 20.6.2.3104 and 20.6.2.3101(A) NMAC. These discharges may contain water contaminants or toxic pollutants elevated above the standards of 20.6.2.3103 NMAC in compliance with the terms and conditions of this Discharge Permit.

The Permittee is authorized to discharge water contaminants pursuant to this Discharge Permit which contains requirements authorized or specified by the Dairy Rule on condition that the Permittee complies with the Dairy Rule and this Discharge Permit, which are enforceable by NMED.

A101 **Terms of Permit Issuance**

- A. **Permit Duration** - Pursuant to WQA 74-6-5(I) and 20.6.2.3109(H) NMAC, the term of a Discharge Permit shall be for the fixed term of **five years** from the effective date of the Discharge Permit.
- B. **Permit Fees** – As a discharge permit associated with a dairy facility, the Permittee shall remit an annual permit fee payment equal to one-tenth of the applicable permit fee from table 1 of 20.6.2.3114 NMAC on the first occurrence of August 1 after the effective date of this Discharge Permit, and annually thereafter until expiration or termination of this Discharge Permit [20.6.6.9(A) NMAC].

Permit Renewal - To renew this Discharge Permit, the Permittee shall submit, in accordance with 20.6.6.10 NMAC, an application and any associated fees for renewal, renewal and modification, or renewal for closure at least one year before the discharge permit expiration date, unless closure of the facility is approved by NMED before that date.

Transfer of Ownership - This Discharge Permit is being issued to DeMarys Mitchell (Permittee) as identified in **Section A100** above. In accordance with 20.6.6.8 NMAC, the Permittee, any listed owner(s) of record, and any [other] holder(s) of an expired discharge permit are responsible for complying with the conditions listed herein and the Dairy Rule. If during the duration of this Discharge Permit a change

in the list of responsible persons is required, transfer of ownership shall be completed in accordance with 20.6.6.34 NMAC as described further in Item D of **Part C101** of this Discharge Permit.

A102 **Applicable Regulations**

- A. **Scope** - This Discharge Permit applies solely for the regulation of process wastewater or stormwater generated as a result of dairy facility operations and does not include regulation of domestic wastewater at the facility [20.6.6.20(Y) NMAC]. Domestic wastewater generated at the facility is treated or disposed of pursuant to 20.7.3 NMAC and LW permit #s CL990163 and CL990165.
- B. The Permittee is discharging from a facility that meets the definition of “dairy facility.” 20.6.2.3000 through 20.6.2.3114 NMAC and Part 20.6.6 NMAC (Dairy Rule) apply to discharges specific to dairy facilities and their operations.

The discharge from the dairy facility is not subject to any of the exemptions of 20.6.2.3105 NMAC.

Groundwater quality as observed in on-site monitoring wells is subject to the criteria of 20.6.2.3101 and 20.6.2.3103 NMAC unless otherwise specified in this Discharge Permit.

Complying with the applicable requirements of 20.6.2 and 20.6.6 NMAC does not relieve a dairy facility’s owner, operator or Permittee from complying with the requirements of other applicable local, state and federal regulations or laws.

A103 **Additional Information Requirements**

- A. The Permittee shall have 90 days from the effective date of this Discharge Permit (by **DATE**) to submit all the necessary information to comply with 20.6.6.10 and 20.6.6.12 NMAC.
- B. The Permittee shall submit the necessary information by completing the application form for renewal and/or modification located at the following address:

<https://www.env.nm.gov/forms/>

C. NMED requires the following sections of the application form for renewal and/or modification be completed, and the form shall be signed by the Permittee and notarized prior to submission:

1. Part II.A.2(a) Describe the methods and calculations used to determine the maximum daily discharge volume.
2. Part II.B.1 The scaled map shall indicate the location of the drains for stormwater and wastewater conveyance from the parlor meters to the impoundment system.
3. Part II.F Land Application Information including the documentation confirming the existence of infrastructure necessary to distribute and apply wastewater and stormwater to the land application area and the nutrient management plan (NMP).

A104 **Facility: Physical Description**

- A. This dairy facility meets the definition of “existing facility.”
- B. This dairy facility is located at 493 NM 467, approximately 5.5 miles north of Portales, in Section 29, 30, and 31, Township 1 North, Range 35 East, in Roosevelt County.
- C. This dairy facility is comprised of the following wastewater system components as identified in the application dated March 31, 2023, and the administrative record which includes the original Discharge Permit issued on June 2, 1999, and subsequently renewed and modified on November 22, 2004, June 26, 2009, renewed on June 3, 2013, and renewed and modified on April 3, 2019, as of the effective date of this Discharge Permit:
 1. Combination Wastewater /Stormwater impoundments:
 - a. **PWRS/RCS 1** - a clay lined retention impoundment used to store both wastewater and stormwater prior to land application. This impoundment is located south of the commodities area, on the northwest side of the impoundment system. Constructed in 1999, PWRS/RCS -1 has a current storage capacity of 22.29 Ac-ft.
 - b. **PWRS/RCS 2** - a clay lined retention impoundment used to store both wastewater and stormwater prior to land application. This impoundment is located south of the commodities area, on the south side of the impoundment system. Constructed in 1999, PWRS/RCS -1 has a current storage capacity of 39.46 Ac-ft.
 - c. **SB-1A** - a clay lined settling basin used to store both wastewater and stormwater to being sent to PWRS/RCS-2. This impoundment is located south of the commodities area, on the northeast side of the impoundment system. Constructed in 2000, SB -1A has a current storage capacity of 1.34 Ac-ft.
 - d. **SB-1B** - a clay lined settling basin used to store both wastewater and stormwater to being sent to PWRS/RCS-2. This impoundment is located south of the commodities area, north central within the impoundment system. Constructed in 2000, SB -1B has a current storage capacity of 2.55 Ac-ft.
 - e. **SB 2** - a clay lined settling basin used to store both wastewater and stormwater to being sent to PWRS/RCS-2. This impoundment is located south of the commodities area, on the northeast side of the impoundment system. Constructed in 1999, SB -2 has a current storage capacity of 5.1 Ac-ft.
 2. Fields within the land application area:
 - a. **LAA-1** – 125 acres, located along the northeast margin of the facility, west of LAA-2. LAA-1 has been actively receiving wastewater by center pivot irrigation since 2005.
 - b. **LAA-2** – 125 acres, located along the northwest margin of the facility, east of LAA-1. LAA-2 has been actively receiving wastewater by center pivot irrigation since 2006.
 - c. **LAA-4** – 125 acres, located north of the pens and commodity areas, west of LAA-5. LAA-4 has been actively receiving wastewater by center pivot irrigation since 2004.

- d. **LAA-6** – 125 acres, located along the southeast margin of the facility, west of the pens and commodity areas. LAA-6 has been actively receiving wastewater by center pivot irrigation since 2000.

These system components are identified as potential sources of groundwater contamination. A list of all wastewater system components authorized to discharge under this Discharge Permit is provided in **Section B100**.

A105 **Facility: Documented Hydrogeologic Conditions**

- A. Groundwater most likely to be affected at this dairy facility is at a depth of approximately 90-138 feet and had a pre-discharge total dissolved solids concentration of 340 milligrams per liter.
- B. Data collected from on-site monitoring wells document groundwater contamination attributed to one or more wastewater system components at this dairy facility *land application areas LAA-1 and LAA-2*. Groundwater quality standards for *Nitrate NO₃* have been exceeded according to the criteria of 20.6.2.3101 and 20.6.2.3103 NMAC. Pursuant to 20.6.6.27 A, the Permittee shall submit a corrective action plan within 120 days following the effective date of this Discharge Permit (by DATE) to address *the exceedance in the groundwater standard for Nitrate for P-2151-S9 and P-2151-S3*. The corrective action plan shall be prepared in accordance with the requirements of **Section B104** of this Discharge Permit and shall describe any repairs made to address the cause of the exceedance, and propose source control measures and a schedule for implementation. The implementation schedule shall include a schedule of all proposed corrective action activities and the date that corrective action will be completed. NMED shall approve or disapprove the corrective action plan within 60 days of receipt.
- C. As part of the corrective action plan required in A105.B, NMED also requires the Permittee to include corrective actions and a schedule to correct the failures and non-compliance issues of the previous discharge permit listed herein, in accordance with 20.6.2.3107.A(10) NMAC. In addition to actions that address groundwater exceedances, the corrective action plan must also include actions that address the following items:
 - 1. Ineffective groundwater monitoring wells – four wells [MW-1, MW-2, MW-3, MW-5] required by 20.6.6.23 NMAC contain insufficient water to monitor the groundwater quality effectively. Currently the land application fields 3, 4, and 5, and impoundment system are not being monitored. 20.6.6.27.C NMAC requires replacement of these wells.
 - 2. Exceedances of permitted maximum daily discharge volume – Meter readings have shown wherein the maximum daily discharge volume authorized by the current Discharge Permit is exceeded by more than ten percent for any four average daily discharge volumes within any 12-week period, 20.6.6.27.D NMAC.
 - 3. Insufficient impoundment capacity/Inability to maintain required freeboard – The permittee should conduct a survey, capacity calculations, and settled solids thickness

measurements to determine if the impoundment is capable of meeting the capacity requirements required by 20.6.6.17.D NMAC. The permittee will need to determine if a minimum of two feet of freeboard can be preserved in the current impoundment system comprising of three settling basins and two combination stormwater and wastewater impoundments. If insufficient capacity cannot be maintained, NMED may require, but is not limited to, proposals for constructing an additional impoundment, reducing the maximum daily discharge volume, changing wastewater management practices, or installing an advanced wastewater treatment system in accordance with 20.6.6.27.F NMAC.

4. Install or repair current manure solids separator – NMED records show the facility has been operating without a working solids separator for over 7 years. The Permittee shall install new solids separator or repair current one depending on feasibility. 20.6.6.20.F NMAC.
- D. There are no perennial surface waters existing within the bounds of the facility. The closest surface water system to the facility is Blackwater Draw, located approximately 3 miles southeast of 4-Way Dairy: Blackwater Draw is a dry stream channel about 87 miles long, heading in Roosevelt County, about 5 miles southwest of Clovis trending generally southeastward.

PART B FACILITY SPECIFIC REQUIREMENTS

B100 Facility: Authorized Discharge

- E. The Permittee is authorized to discharge water contaminants as part of facility operations subject to the following requirements:

The Permittee is authorized to discharge up to 100,000 gpd of wastewater from the production area. Wastewater flows to an unlined drainage channel into settling basins SB-1A and SB-2 and is pumped through the two-celled concrete settling basin which drains into SB-1B. Wastewater is then distributed to either synthetically lined combination wastewater and stormwater impoundment, PWRS/RCS-1 or 2, for storage. The Permittee land applies wastewater by center pivot irrigation to up to 500 acres of irrigated cropland under cultivation. Recirculation between the settling basins and PWRS/RCS system occurs as need for further solids separation.

1. The Permittee is authorized to use the following impoundments for the following purposes in accordance with 20.6.6.20(B) NMAC:
 - a. **Process Water Retention Structure/Runoff Control Structure 1 (PWRS/RCS 1)** – authorized to receive wastewater and stormwater for storage prior to land application. This impoundment *exists* as of the effective date of this Discharge Permit
 - b. **PWRS/RCS 2** – authorized to receive wastewater and stormwater for storage prior to land application. This impoundment *exists* as of the effective date of this Discharge Permit

- c. **Settling Basin 1A (SB-1A)**– authorized to receive wastewater for solids separation prior to being pumped to the PWRS/RCS system. This impoundment **exists** as of the effective date of this Discharge Permit.
 - d. **SB-1B** – authorized to receive wastewater for solids separation prior to being pumped to the PWRS/RCS system. This impoundment **exists** as of the effective date of this Discharge Permit.
 - e. **SB-2** – authorized to receive wastewater for solids separation prior to being pumped to the PWRS/RCS system. This impoundment **exists** as of the effective date of this Discharge Permit.
2. NMED authorizes the Permittee to apply wastewater to fields within the land application area in accordance with 20.6.6.21(B, C and I) NMAC. The land application area is comprised of the following fields for a total land application area of 500 acres.
- a. **LAA-1** – authorized by the last Discharge Permit prior to the effective date of the Dairy Rule (December 31, 2011) to receive wastewater and *has* received wastewater as of the effective date of this Discharge Permit.
 - b. **LAA-2** – authorized by the last Discharge Permit prior to the effective date of the Dairy Rule (December 31, 2011) to receive wastewater and *has* received wastewater as of the effective date of this Discharge Permit.
 - c. **LAA-4** – authorized by the last Discharge Permit prior to the effective date of the Dairy Rule (December 31, 2011) to receive wastewater and *has* received wastewater as of the effective date of this Discharge Permit.
 - d. **LAA-6** – authorized by the last Discharge Permit prior to the effective date of the Dairy Rule (December 31, 2011) to receive wastewater and *has* received wastewater as of the effective date of this Discharge Permit.
3. The following fields within the land application area **are not** authorized for use by this Discharge Permit.
- e. **LAA-3** – is subject to closure and post-closure groundwater monitoring requirements.
 - f. **LAA-5** – is subject to closure and post-closure groundwater monitoring requirements.
- F. This Discharge Permit authorizes only those discharges specified herein. Any unauthorized discharges, such as spills or leaks must be reported to NMED in a corrective action conducted pursuant 20.6.2.1203 NMAC.

The Permittee shall provide written notice to NMED regarding any changes to the status of wastewater discharges at the facility in accordance with 20.6.6.20.A NMAC as summarized in **Table B1** below:

Table B1
NMED Required Notification for Authorized Discharge

Activity	Notification of Estimated Date	Verification of Actual Date
Cessation of wastewater discharge	Not required	Within 30 days of cessation of discharge

Resumption of Discharge	Minimum 30 days prior to resumption	Within 30 days of resumption
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B101 Facility: Existing System Controls

- A. The Permit requires the following existing system controls at this dairy facility as described below:
1. **Impoundments** - The Permittee shall maintain operations of the existing impoundment(s) as listed in **Section A104** above in accordance with conditions listed in **Table B2** to achieve compliance with the Dairy Rule. The wastewater impoundment system shall be designed to achieve compliance with the storage capacity requirements of 20.6.6.17(D) NMAC.
 2. **Flow Meters** - The dairy facility was existing as of the effective date of the Dairy Rule (December 31, 2011) and measures the volume of (1) wastewater discharged from the production area and (2) wastewater and stormwater discharged to the land application area using the following flow meters:
 - a. **Dairy Supply Meter** – located on the supply line to measure the volume of all fresh water used within the dairy.
 - b. **Livestock Meter west** – located on the water supply line used to supply livestock in the west parlor with drinking water. Readings from this meter are subtracted from the Dairy Supply Meter to estimate the volume of fresh water contributing to the wastewater discharged from the parlor.
 - c. **Livestock Meter middle** – located on the water supply line used to supply livestock in the middle parlor with drinking water. Readings from this meter are subtracted from the Dairy Supply Meter to estimate the volume of fresh water contributing to the wastewater discharged from the parlor.
 - d. **Livestock Meter east** – located on the water supply line used to supply livestock from the east parlor with drinking water. Readings from this meter are subtracted from the Dairy Supply Meter to estimate the volume of fresh water contributing to the wastewater discharged from the parlor.
 - e. **LAA Meter** – located on the discharge line from the settling basins to the PWRS/RCS system used to measure the volume of wastewater discharged to the PWRS/RCS system and subsequently to each field in the land application area.
 3. **Manure Solids Separator** - The dairy facility was existing as of the effective date of the Dairy Rule (December 31, 2011) and employs [the following] manure solids separation system:
 - a. **Manure Solids Separator** – an inclined screen separator located north of the PWRS/RCS system and south of the commodities area. Solids are further separated using three basins in conjunction with the wastewater/stormwater impoundments. The inclined screen separator has been out of service since 2018 noted during a scheduled routine inspection.

4. **Monitoring Wells** - The dairy facility was existing as of the effective date of the Dairy Rule (December 31, 2011) and uses [the following] monitoring wells to supply data representative of groundwater quality:
 - a. **MW-1A** – hydrologically upgradient of all contamination sources at the dairy facility located southwest of LAA-6 and east of NM-467.
 - b. **P-2151-S9** – hydrologically downgradient of the LAA-1 and LAA-2, located in the center of LAA-2.
 - c. **P-2151-S3** – hydrologically downgradient of the LAA-6, located in the center of the field.

B102 Facility: Conditions for Operation

- A. **Impoundment(s)** - The Permittee shall manage all impoundments at the dairy facility in accordance with 20.6.6 NMAC and the conditions summarized in **Table B2** below.

**Table B2
 Impoundment(s)**

Engineering, Surveying and Construction and/or Improvements
a) Corrective action conditions required as per A. 105 C in this discharge permit.
Operations and Maintenance of All Impoundments
b) Maintain operation of the following existing impoundments in compliance with this section: PWRS/RCS-1, PWRS/RCS-2, SB-1A, SB-1B and SB-2.
c) Maintain the existing wastewater storage impoundment system to contain the maximum daily discharge volume of 100,000 gpd authorized by this Discharge Permit for a minimum period of 21 days to accommodate when land application is not feasible, while preserving two feet of freeboard as required by 20.6.6.17(D) NMAC. [20.6.6.21(A)NMAC]
d) An unlined ditch system is used in lieu of pipes and fixtures for the conveyance of wastewater and stormwater; therefore, the permittee will need to visually inspect the ditch system on a weekly basis for evidence of leaks or failure. Any damage to the side walls or the base shall be repaired within a reasonable period. [20.6.6.20 Q NMAC]
e) Repair or replace the faulty pipe(s) or fixture(s) within 72 hours of discovery of an unauthorized discharge. [20.6.6.20(Q) NMAC]
Inspection and Monitoring All Impoundments
f) A log shall be kept on-site documenting the inspection, findings, and repairs made to the ditch system, and the log shall be made available to the department upon request. [20.6.6.20 Q NMAC]
g) Visually inspect impoundments and surrounding berms on a monthly basis to ensure proper condition and control vegetation growing around the impoundments in a manner that is protective of the liners. [20.6.6.20(P) NMAC]
h) Visually inspect pipes and fixtures on a weekly basis for evidence of leaks or failure. In areas where pipes and fixtures cannot be visually inspected because they are buried, visually inspect the area directly surrounding the features for evidence of leaks or failure (e.g., saturated surface soil, surfacing wastewater, etc.). [20.6.6.20(Q) NMAC]

**Table B2
 Impoundment(s)**

<p>i) Estimate or measure the volume of all wastewater discharged to the wastewater or combination wastewater/stormwater impoundment(s) using flow meters. [20.6.6.24(C)NMAC]</p> <p>j) Annually collect representative wastewater samples from impoundments used to store wastewater prior to land application in accordance with 20.6.6.25(C) NMAC and analyze for nitrate as nitrogen, total Kjeldahl nitrogen, chloride, total sulfur and total dissolved solids pursuant to 20.6.6.24(B) NMAC.</p>
<p>Recordkeeping and Reporting All Impoundments</p>
<p>k) Within 90 days of completed impoundment construction, submit a Construction Certification Report verifying construction pursuant to 20.6.6.17(C) NMAC. The construction certification report shall include: record drawings, final specifications, final capacity calculations and the CQA/CQC report. [20.6.6.20(E) NMAC]</p> <p>l) Report any unauthorized discharges to NMED pursuant to 20.6.2.1203 NMAC.</p> <p>m) Unless otherwise specified in this Discharge Permit, submit all monitoring information quarterly as part of the required Quarterly Monitoring Report in accordance with the general reporting schedule listed in Table C1 of this Discharge Permit.</p> <p>n) Report wastewater sample results to NMED annually as part of the next scheduled Quarterly Monitoring Report. [20.6.6.25(C) NMAC]</p> <p>o) Notify NMED within 24 hours of discovery of any observed impoundment condition(s) that may impact the structural integrity of a berm or liner or that may result in an unauthorized discharge. [20.6.6.20(P) NMAC]</p> <p>p) Maintain written records at the dairy facility of all facility inspections including repairs and replacements.</p>

B. **Land Application Area Management** - The Permittee shall manage all land application areas at the dairy facility in accordance with 20.6.6 NMAC and the conditions summarized in **Table B3** below.

**Table B3
 Land Application Area Management**

<p>Engineering and Surveying</p>
<p>a) Any irrigation or supply wells located within the land application area shall have a surface pad constructed in accordance with the recommendations of 19.27.4.29(G) NMAC and a permanent well cap or cover pursuant to 19.27.4.29(I) NMAC. [20.6.6.21(N) NMAC]</p>
<p>Operations and Maintenance All Land Application Areas</p>
<p>b) Land apply wastewater uniformly to all fields within the land application area as authorized in Section B100 and a planned rate consistent with an approved NMP. [20.6.6.21(B) NMAC]</p> <p>c) Land apply wastewater only to fields within the land application area receiving fresh irrigation water. Wastewater is intended as sources of crop nutrients and shall not be used as a primary source to meet the water consumptive needs of a crop.</p> <p>d) Land apply, as required, manure solids and composted material to the land application area in accordance with an approved NMP. [20.6.6.20(S) NMAC]</p> <p>e) As required, blend wastewater with fresh water using any of the methods provided in 20.6.6.21(D) NMAC.</p> <p>f) Minimize ponding within the land application area. [20.6.6.21(B) NMAC]</p> <p>g) Remove crops from fields within the land application area by mechanical harvest consistent with an approved NMP [20.6.6.21(J) NMAC]</p>

Table B3
Land Application Area Management

- h) Per the approved **NMP**, remove crops from the fields within the land application area by mechanical harvest [Subsection J of 20.6.6.21 NMAC] for LAA-1, LAA-2, LAA-4 and LAA-6.
- k) Utilize flow meters (**Table B6**) installed on one or more discharge or transfer line(s) to monitor and record the volume of wastewater and/or stormwater distributed to the land application area. [20.6.6.21(G and H) NMAC]
- l) Per 20.6.6.21(L) NMAC, utilize and maintain backflow prevention devices as summarized in **Table B7** of this Discharge Permit.

Inspection and Monitoring All Land Application Areas

- m) Perform routine soil sampling in each field within the land application area in accordance with 20.6.6.25(K and L) NMAC. Report analytical results and provide a map depicting the soil sampling locations within each field annually to NMED as part of the **Quarterly Monitoring Report** due **May 1**.
 - For fields currently receiving or having received wastewater, collect soil samples annually regardless of whether the field is cropped, remains fallow, or has recently received wastewater or stormwater.
- n) Annually collect a sample of irrigation water supplied from each well or a group of physically connected wells and analyze for nitrate as nitrogen and total Kjeldahl nitrogen, pursuant to 20.6.6.24(B)NMAC. Report results to NMED as part of the **Quarterly Monitoring Report** due **May 1**. If the results are consistent for the first **five years** of annual sampling, sampling frequency may be reduced to once every other year. [20.6.6.25(E) NMAC]
- o) Collect and analyze a composite sample of plant material representative of each type of crop harvested from each field in the land application area over the course of the year in accordance with 20.6.6.25(I) NMAC. The Permittee may use the most recent book values included in the NMSU/NRCS 590 jobsheet or data obtained from the USDA PLANTS Database as an alternative method to estimate the nitrogen concentration of harvested crops. Report results to NMED as part of the next scheduled **Quarterly Monitoring Report**.
- p) Annually collect a composite sample to calculate actual nitrogen content values of on-site manure solids or estimate the nitrogen content of the manure solids applied to each field of the land application area at 25 pounds/ton. [20.6.6.25(D) NMAC] Collect and analyze sample in accordance with the requirements listed in 20.6.6.25(D) NMAC: Report results to NMED as part of the next scheduled **Quarterly Monitoring Report**.

Recordkeeping and Reporting All Land Application Areas

- q) Submit annual updates to the approved **NMP** to NMED as part of the **Quarterly Monitoring Report** due **May 1**. [20.6.6.21(I) NMAC]
- r) If blending, maintain an accurate written record of the volume of fresh water added to the wastewater to properly calculate the overall volume of wastewater applied under an approved **NMP**.
- s) Maintain and submit land application data sheets (LADS) for each authorized field within the land application area in accordance with 20.6.6.25(G) NMAC. Submit completed sheets or a statement that land application did not occur to NMED as part of each **Quarterly Monitoring Report**.
- t) Maintain a log recording for fluid volume(s) being land applied that includes the following:
 - date and location of each discharge
 - flow meter readings immediately prior to and after each discharge
 - calculated total volume of each discharge reported in gallons and acre-feet
- u) Submit a copy of the current log to NMED as part of each **Quarterly Monitoring Report**. [20.6.6.25(B) NMAC]

**Table B3
 Land Application Area Management**

<p>v) Maintain a log recording for all additional fertilizers applied to each field within the land application area that includes the following:</p> <ul style="list-style-type: none"> • date of fertilizer application • type and form of fertilizer • fertilizer analysis • amount of fertilizer applied (pounds/acre) to each field • amount of nutrients applied (pounds/acre) to each field <p>w) Submit a copy of the current log to NMED as part of each Quarterly Monitoring Report. [20.6.6.25(F) NMAC]</p> <p>x) Maintain an inspection log on-site regarding maintenance of land application infrastructure. Provide log to NMED upon request. [20.6.6.21(K) NMAC]</p> <p>y) Estimate the annual volume of fresh water applied to each field within the land application area: Report results to NMED as part of the Quarterly Monitoring Report due May 1. [20.6.6.25(E) NMAC]</p> <p>z) Per 20.6.6.25(H) NMAC, submit crop yield documentation and plant and harvest dates of each crop grown to NMED as part of the next scheduled Quarterly Monitoring Report.</p> <p>aa) Per 20.6.6.25(J) NMAC, submit a nitrogen removal summary report to NMED as part of the next scheduled Quarterly Monitoring Report.</p>

C. **Stormwater Management** - The Permittee shall manage stormwater at the dairy facility in accordance with 20.6.6 NMAC and the conditions summarized in **Table B4** below.

**Table B4
 Stormwater Management**

Engineering and Surveying
a) None required.
Operations and Maintenance
<p>c) Implement stormwater management by observing the facility for the presence of standing liquid after every precipitation event as follows: [20.6.2.3109 NMAC]</p> <ul style="list-style-type: none"> • Maintain stormwater conveyance including ditch conveyances [20.6.6.20(H) and (Q) NMAC] • Divert stormwater to minimize stormwater ponding and infiltration. [20.6.6.20(H) NMAC] • Maintain diversions for facility stormwater run-on and run-off to prevent ponding within areas used for manure and compost stockpiling [20.6.6.20(S) NMAC]
Inspection and Monitoring
d) Visually inspect drainage channels on a monthly basis to ensure proper maintenance. [20.6.6.21(K) NMAC]
Recordkeeping and Reporting
k) None required.

- D. **Manure Solids Separator** - The Permittee shall employ manure solids separation at the dairy facility in accordance with 20.6.6.20(F) NMAC and the conditions summarized in **Table B5** below.

**Table B5
 Manure Solids Separator**

Engineering and Surveying
a) Submit relevant engineering designs for a solids separator based on the corrective action plan required as per A105.C in this discharge permit.
b) The unlined drainage channel components of manure solids transportation shall be designed with an impervious material to minimize generation and infiltration of leachate, and must accommodate at minimum, the maximum daily discharge volume authorized by this discharge permit, and the volume of manure solids associated with the wastewater discharge. Submit construction plans and specifications to achieve compliance with the applicable contingency requirements of 20.6.6.17 (4) and (5) NMAC; 20.6.6.20 R NMAC.
Operations and Maintenance
c) Regularly remove all manure solids (and any composted material) from the separation systems, including the ditch conveyances for appropriate disposal per 20.6.6.20(S) NMAC.
d) Collect and contain all manure solids and leachate generated from those solids as part of the manure solids separation system on an impervious surface prior to disposal.
Inspection and Monitoring
e) None required.
Recordkeeping and Reporting
f) None required.

- E. **Flow Meters** – Pursuant to 20.6.6.20 and 20.6.6.21 NMAC, the Permittee shall employ a flow metering system that uses flow measurement devices (flow meters) to measure the volume(s) of 1) wastewater discharged from the production area and 2) wastewater transferred and land applied at the dairy facility. All flow meters employed at a dairy facility shall be managed in accordance with 20.6.6 NMAC and the conditions listed in **Table B6** below.

**Table B6
 Flow Meters**

Engineering and Surveying
a) Pursuant to 20.6.6.17(C) NMAC and to achieve compliance with the Dairy Rule, within 90 days of effective date of this Discharge Permit (by DATE), submit a Flow Metering Plan for the facility describing one or more flow meter devices the Permittee proposes to measure the following <ul style="list-style-type: none"> • the volume of all sources contributing to the wastewater discharged to the impoundments [20.6.6.17(C); 20.6.6.20(J) NMAC] • the volume of wastewater discharged from the wastewater storage impoundment system to each field in the land application area [20.6.6.21(G) NMAC] A Flow Metering Plan shall include: <ul style="list-style-type: none"> • documentation used to support selection of each device • description of each proposed device location

**Table B6
 Flow Meters**

<ul style="list-style-type: none"> • information on the planned installation or construction of each device. <p>b) Locate all flow meters pursuant to 20.6.6.20(M) NMAC and 20.6.6.21(G and H) NMAC, and indicate location(s) on a scaled map and submit a copy of record drawings or manufacturer plans and technical specifications, if available. [20.6.6.20(U) NMAC]</p>
Operations and Maintenance
<p>c) The following flow meters may be approved for continued use in compliance with 20.6.6.20(J) NMAC and the pending the Flow Metering Plan: Dairy Supply Meter, Livestock Meter West, Livestock Meter Middle, Livestock Meter East, LAA Meter.</p> <p>d) All flow meters shall be calibrated in accordance with the manufacturer’s requirements prior to installation or reinstallation following repair. [20.6.6.20(J) NMAC]</p>
Inspection and Monitoring
<p>e) Using flow meter installed on the discharge line, directly measure the volume of all wastewater discharged to the impoundment(s) authorized to contain wastewater. [20.6.6.20(N) NMAC]</p> <p>f) Using flow meter(s) installed on the fresh water supply line(s), measure the volume of all sources contributing to the wastewater discharged to the impoundment(s) authorized to contain wastewater. Readings from flow meter(s) on water supply lines are used to estimate wastewater volumes discharged to wastewater or combination wastewater/stormwater impoundment(s) without adjustments or deductions to the meter readings. [20.6.6.20(N) NMAC]</p> <p>g) Visually inspect flow meters on a weekly basis for evidence of malfunction. If a visual inspection indicates a flow meter is not functioning to measure flow, the Permittee shall initiate repair or replacement of the meter within seven days of discovery. [20.6.6.20(O) NMAC]</p>
Recordkeeping and Reporting
<p>h) Maintain copies of the manufacturer’s certificate of calibration and the manufacturer’s recommended maintenance schedule at the facility.</p> <p>i) Record of meter readings at intervals not to exceed monthly. The average daily discharge volume for each recording interval shall be calculated by dividing the difference between the meter readings by the number of days between meter readings. [20.6.6.24(C)NMAC]</p> <p>j) Record meter readings (without adjustments or deductions) and submit in the Quarterly Monitoring Report [20.6.6.20(N) NMAC]. Include the date, time and units of each measurement, and calculations for the average daily volumes of wastewater discharged to the impoundments, reported in gallons per day. [20.6.6.24(C)NMAC]</p> <p>k) For meters requiring repair, submit a report to NMED on the quarter following the repair that includes a description of the malfunction, a statement verifying the repair, and a copy of the manufacturer’s or repairer’s certificate of calibration.</p> <p>l) For meters requiring replacement, submit a report to NMED on the quarter following the replacement that includes plans for the device pursuant to 20.6.6.17(C) NMAC, a copy of the manufacturer’s certificate of calibration, and a copy of the manufacturer’s recommended maintenance schedule.</p>

F. **Backflow Prevention Device(s)** - Per 20.6.6.21 NMAC, the Permittee shall protect all water wells used within a land application distribution system from contamination by wastewater or stormwater backflow by installing and maintaining backflow prevention methods or devices. The backflow prevention system(s) employed at a dairy facility shall be managed in accordance with the conditions listed in **Table B7** below.

**Table B7
 Backflow Prevention**

Engineering and Surveying
<p>a) Pursuant to 20.6.6.21(E) NMAC, provide NMED with documentation that confirm method(s) of backflow prevention are being employed within the land application area (see Table B3, Operations and Maintenance) for fields LAA-1, LAA-2, LAA-4, and LAA-6.</p> <p>b) Include location(s) of all backflow prevention methods or devices installed at the facility on the scaled map of the dairy facility as required per 20.6.6.20(U) NMAC.</p>
Operations and Maintenance
<p>a) Maintain all backflow prevention methods or devices in compliance with 20.6.6.21(L) NMAC.</p> <p>b) Repair or replace a malfunctioning check valve device within 30 days of discovery, and use of all wastewater supply lines associated with the check valve device shall cease until repair or replacement has been completed. [20.6.6.21(M) NMAC]</p>
Inspection and Monitoring
<p>c) Inspect each check valve device monthly when the well is in operation. [20.6.6.21(M) NMAC]</p>
Recordkeeping and Reporting
<p>d) Submit written confirmation of installation of all backflow prevention methods or devices to NMED within 180 days of the effective date of this Discharge Permit.</p> <p>e) Submit annually copies of the inspection and maintenance records for each check valve device associated with the backflow prevention program for the previous year to NMED as part of the <u>Quarterly Monitoring Report</u> due May 1. [20.6.6.21(M) NMAC]</p>

- G. **Monitoring Well(s)** - Per 20.6.6.23(A) NMAC, a Permittee is required to install a sufficient number of monitoring wells at appropriate depths and locations to monitor groundwater quality upgradient of a dairy facility and hydrologically downgradient of each source of groundwater contamination: wastewater, stormwater, and combination wastewater/stormwater impoundments, and fields within the land application area. The approved groundwater monitoring well system at a dairy facility is detailed in **Table B8** below.

**Table B8
 Groundwater Monitoring Wells**

Engineering and Surveying
<p>a) To achieve compliance with the facility monitoring requirements set forth in this Discharge Permit and the Dairy Rule, the Permittee shall submit a written monitoring well location proposal for review and approval by NMED within 60 days following the effective date of this Discharge Permit (by DATE). The proposal shall designate the locations of all monitoring wells required by this Discharge Permit. The proposal shall include, at a minimum, the following information:</p> <ul style="list-style-type: none"> • A map showing the proposed location of the monitoring well(s) from the boundary of the source it is intended to monitor • A written description of the specific location proposed for the monitoring well(s) including the distance (in feet) and direction of the monitoring well(s) from the edge of the source it is intended to monitor. Examples include: 35 feet north-northwest of the northern berm of the

**Table B8
 Groundwater Monitoring Wells**

<p>synthetically lined impoundment; 30 feet southeast of the land application area; 150 degrees from north</p> <ul style="list-style-type: none"> • A statement describing groundwater flow direction beneath the facility, and documentation and/or data supporting the determination <p>All proposed monitoring well locations shall be approved by NMED prior to installation. [NMSA 1978, § 74-6-5.D, 20.6.2.3109(B) NMAC]</p> <p>b) Survey all facility groundwater monitoring wells upon installation in accordance with 20.6.6.17(B) NMAC.</p>
<p>Operations and Maintenance</p>
<p>c) Operate and maintain the following facility groundwater monitoring well(s) in compliance with 20.6.6.23(A) NMAC and this section of this Discharge Permit: MW-1A, P-2151-S9, and P-2151-S3.</p> <p>d) Within 120 days following written approval from NMED for proposed monitoring well location(s), install and complete the following additional groundwater monitoring wells: [20.6.6.23(A) NMAC]</p> <ul style="list-style-type: none"> • MW-3R, hydrologically downgradient of the impoundment system. • MW-6, hydrologically downgradient of the land application area for Fields 3, 4, and 5. <p>e) All new wells shall be constructed and completed in accordance with 20.6.6.23(D) NMAC</p> <p>f) Verify all facility monitoring wells are permanently identified in accordance with 20.6.6.23(C) NMAC.</p>
<p>Inspection and Monitoring</p>
<p>g) Collect a groundwater sample from each newly installed monitoring well within 30 days of well completion. [20.6.6.23(H) NMAC]</p> <p>h) Perform quarterly groundwater sampling in accordance with 20.6.6.23(F) NMAC to comply with the required monitoring reporting schedule listed in Table C1.</p> <p>i) Analyze collected groundwater sample(s) according to the methods listed in 20.6.6.24(B) and 20.6.2.3107(B) NMAC. Pursuant to 20.6.6.24(B) NMAC, sample constituents that require analysis and reporting to NMED include: nitrate as nitrogen, total Kjeldahl nitrogen, chloride, sulfate and total dissolved solids. [20.6.6.23(G) NMAC] In addition to these constituents, NMED also requires analysis and reporting of the following.</p> <p>j) Prior to the expiration date of this Discharge Permit, NMED shall have the option to perform one downhole inspection of each monitoring well identified in this Discharge Permit. NMED shall establish the inspection date and provide at least 60 days' notice to the Permittee by certified mail. The Permittee shall have any existing dedicated pumps removed at least 48 hours prior to NMED inspection to allow adequate settling time of any sediment agitated as a result of pump removal.</p> <p>k) Should a facility not have existing dedicated pumps, but decide to install pumps in any of the monitoring wells, NMED shall be notified at least 90 days prior to pump installation so that a downhole well inspection can be scheduled prior to pump placement. [20.6.2.3107 NMAC]</p>
<p>Recordkeeping and Reporting</p>
<p>l) Provide to NMED a Monitoring Well Survey Report within 60 days of well completion. [20.6.6.23(I and K) NMAC] A Monitoring Well Survey Report shall contain, at a minimum, the following information:</p> <ul style="list-style-type: none"> • Facility map with location and number of each well • Top-of-casing survey elevation data of each well • Depth-to-shallowest groundwater measurements • Direction and gradient of groundwater flow at the dairy facility

Table B8
Groundwater Monitoring Wells

- m) A **Monitoring Well Completion Report** shall be filed with NMED within 60 days of the well completion date as specified in this Discharge Permit. [20.6.6.23(J) NMAC] A **Monitoring Well Completion Report** shall contain, at a minimum, the following information:
- Construction and lithologic logs for the new monitoring wells including well record information specified by 19.27.4 NMAC
 - Depth-to-most-shallow groundwater measured in each new and existing monitoring well
 - Survey data and a survey map showing the locations of each new and existing monitoring well and a groundwater elevation contour map developed pursuant to 20.6.6.23(L) NMAC
 - Analytical results of groundwater samples collected from the new monitoring wells, including laboratory quality assurance and quality control summary reports, and field parameter measurements
- n) A **Quarterly Monitoring Report** shall be filed with NMED in accordance with the general reporting schedule listed in **Table C1**. Each **Quarterly Monitoring Report** shall contain, at a minimum, the following information: [20.6.6.23(G) NMAC]
- Facility map with location and number of each well in relation to the contamination source it is intended to monitor
 - Depth-to-shallowest groundwater measurements
 - Field parameter measurements and parameter stabilization log
 - Analytical results (including the laboratory quality assurance and quality control summary report)
 - Groundwater elevation contour maps utilizing elevation contours of 2 ft or less in accordance with 20.6.6.23(L) NMAC

B103 **Facility: Conditions for Closure**

- A. The Permittee shall comply with the requirements of 20.6.6.30 NMAC and shall submit to NMED all information or documentation required by the applicable portions of 20.6.6.30 NMAC.
- B. Within (90) days of the effective date of this Discharge Permit (by DATE), the Permittee shall properly plug and abandon the following 5 existing monitoring wells in accordance with 20.6.6.30(C) NMAC.
1. **MW-1**, located on the western side of the facility between LAA-1 and LAA-3.
 2. **MW-2**, located on the southern boundary of the facility, on the southeast berm of PWRS/RCS-2.
 3. **MW-3**, located on the eastern boundary of the facility, on the southeast corner of the corrals.
 4. **MW-4**, located northeast of the impoundment system, just west of the corrals.
 5. **MW-5**, located at the southeast edge of LAA-2, north of LAA-4.

Wells shall be plugged and abandoned in pursuant to 19.27.4 NMAC and 20.6.6.30(C) NMAC and in accordance with NMED's *Monitoring Well Construction and Abandonment Guidelines* and any other applicable local, state, and federal regulations. Documentation describing the plug and abandonment procedures, including photographic documentation, shall be presented in a **Well Abandonment Report**. The **Well Abandonment Report** shall be submitted to NMED within 180 days of the effective date of this Discharge Permit (by DATE).

- C. Within nine (9) months of the issuance date of this Discharge Permit (by DATE), the Permittee shall submit a detailed closure plan for NMED's approval to prevent the exceedance of standards of 20.6.2.3103 NMAC in groundwater after the cessation of operation. The closure plan shall include at least a 30% level of design, a description of closure measures, maintenance and monitoring plans, post-closure maintenance and monitoring plans, and other measures necessary to prevent or abate such contamination, e.g., a corrective action plan.
1. The Permittee shall ensure that the closure plan is sufficiently detailed to address the steps necessary to close the dairy, associated impoundments, irrigation infrastructure, and any other wastewater related infrastructure. Further, the detailed closure plan shall address all the closure actions covered in B103.H of this permit which include manure solids removal from pens and impoundments, characterization of wastes to be disposed on-site and off-site, the plugging and abandonment of monitoring wells, all post-closure activities, and ongoing maintenance for all impoundments, irrigation infrastructure, and any other wastewater related infrastructure until closure is completed.
 2. The Permittee shall ensure, as necessary, that the closure plan addresses all necessary corrective actions, that at a minimum addresses actions to delineate the nature and extent of any groundwater contamination, contaminant source control measures, and any actions to abate water pollution consistent with the requirements and provisions of Section 20.6.2.4101 as approved by NMED.
 3. The Permittee shall ensure that the closure plan addresses post-closure care, including the continued groundwater monitoring required under the Discharge Permit. NMED considers all closure and post-closure activities to constitute "complete closure."
 4. The Permittee shall ensure the closure plan has sufficient detail to estimate the cost of complete closure of all wastewater related infrastructure, post-closure monitoring, and all necessary corrective actions for the purpose of establishing and maintaining financial assurance. The detailed closure plan shall provide sufficient detail to estimate the cost of operation and maintenance of the groundwater monitoring system. Inherent in this detail is an estimate of the time (after the cessation of Facility operation) that the groundwater monitoring system will have to remain in place and in operation, i.e., until WQCC groundwater standards have been met for at least eight consecutive quarters.
- D. Within 90 days from the date of NMED's approval of the closure plan, the Permittee shall submit a detailed cost estimate (Estimate) for NMED's approval based on the detailed closure plan for complete closure required by B103.C. The Estimate shall be based on the cost of hiring a third party to conduct complete closure. The Estimate shall include direct costs

associated with third-party implementation of the closure plan, contingency costs in the amount of 15 percent of the direct costs, the cost of an independent project manager and contract administration, and NMED oversight and administration costs, including indirect costs. The Estimate shall forecast the worst-case scenario for complete closure over the five-year period of this Discharge Permit; if a new permit is not issued after five years, the Estimate for the worst-case scenario shall be updated annually each year after five years and any financial assurance shall be adjusted accordingly.

1. The Permittee shall adjust the Estimate for inflation over the five-year period for complete closure and shall project the amount needed for each of the five years for the worst-case scenario for all activities included in complete closure.
- E. Within 90 days from the date of NMED's approval of the closure cost estimate (Estimate), the Permittee shall submit to NMED for approval its proposed financial assurance instrument(s) that meets the requirements below.
1. The amount of financial assurance shall be sufficient to cover the cost of implementing complete closure as described in the closure plan and the Estimate required by B103.C and B103.D of this Discharge Permit. The Permittee shall not propose any form of self-guarantee. The financial assurance instrument(s) shall ensure that funds will be available to implement complete closure if at any time the Permittee is unable, unwilling, or otherwise fails to implement any portion of the closure plan as required by this Discharge Permit. If the financial assurance instrument(s) entails incremental costs of maintaining the instrument(s), i.e., costs for a trustee, the Permittee shall increase the amount of the financial assurance to include all such costs.
 2. The Permittee shall name NMED as the sole beneficiary in each financial assurance instrument(s).
 3. The financial assurance instrument(s) shall include a method for adjustments due to changes in inflation, new technologies, and NMED approved revisions to the closure plan based on continued investigations or other information and shall be adjusted no less frequently than every five years such that, at all times, the amount of financial assurance provided by the Permittee shall be sufficient to perform complete closure at any time during the following five years from the update.
 4. Within 30 days after NMED approves the draft financial assurance instrument(s) the Permittee shall execute the financial assurance instrument and submit it to NMED for final acceptance.
 5. Within 30 days of the implementation of the financial assurance instrument(s), the Permittee shall establish a trust to receive and disburse funds, which may arise as the result of forfeiture of financial assurance. The trust shall name NMED as the beneficiary. The trust agreement shall be in a form satisfactory to the State Board of Finance and shall be subject to approval by the Governor pursuant to NMSA 1978, § 46-4-1 through 9. The Permittee shall maintain the trust until complete closure has occurred and NMED terminates any existing discharge permit in effect at the time. Upon forfeiture of

financial assurance, the forfeited amount shall transfer from the financial assurance instrument into the trust for use by NMED or a third-party for any activities or costs related to complete closure.

6. The Permittee may propose alternative financial assurance instrument(s) from time to time subject to NMED's written approval and acceptance. The Permittee shall not replace any approved financial assurance instrument(s) without NMED's written approval.
7. Unless released by NMED in writing, the financial assurance instrument(s) shall remain in effect until complete closure and final termination of this Discharge Permit and shall remain in place at all times, including lapses in Discharge Permit coverage, late Discharge Permit renewal, or temporary shutdown of facilities covered under this Discharge Permit.
8. Should circumstances warrant more frequent adjustments than provided for in the approved financial assurance instrument(s), NMED may require them in writing and the Permittee shall make the adjustment within 180 days.
9. No more frequently than once every 12 months, the Permittee may request that NMED review remaining activities required for complete closure, including alternate closure activities that NMED has approved. The Permittee's request for review shall describe the activities that have been completed and shall contain an updated Estimate for all remaining complete closure activities.

If NMED approves the Permittee's description of activities that have been completed, the remaining activities of complete closure, and the Estimate for remaining complete closure activities, NMED will notify the Permittee of appropriate adjustments that the Permittee may make to the amount of financial assurance.

When the WQCC revises the financial assurance regulations and those regulations become effective, the Permittee shall evaluate and, if necessary, revise the financial assurance instrument to comply with the revised WQCC regulations.

- F. The Permittee shall adhere to the following stipulations for cancellation, non-renewal, forfeiture, or release of the financial assurance instrument(s).
 1. Cancellation or Non-renewal: Each financial assurance instrument shall require the financial assurance provider to give at least 120 days written notice to NMED and the Permittee prior to cancellation or non-renewal of the financial assurance instrument. If NMED receives notice of cancellation or non-renewal from a financial assurance provider, the Permittee shall propose an alternate financial assurance mechanism to NMED within 30 days of the notice. If NMED approves the alternate financial assurance mechanism, the Permittee shall execute it and submit it to NMED for final acceptance within 30 days of NMED approval. If the Permittee fails to obtain alternate financial assurance acceptable to NMED within 30 days of NMED approval, the current financial assurance shall be subject to forfeiture.

2. Forfeiture: If NMED determines that implementation of all or any part of complete closure is required and that the Permittee is unable or unwilling or will otherwise fail to conduct all or any part of complete closure as required by this Discharge Permit, then NMED may proceed with forfeiture of all or part of the financial assurance.

Prior to beginning a forfeiture proceeding, NMED will provide written notice by certified mail to the Permittee and to all financial assurance providers, if applicable. NMED's notice will inform the parties of the determination to forfeit all or a portion of the financial assurance. If NMED's access to the financial assurance is threatened due to time constraints, NMED may begin a forfeiture proceeding and provide written notice contemporaneously with that proceeding. NMED's written notice will state the reasons for the forfeiture and the amount to be forfeited.

The forfeited amount shall be based on the total cost of performing complete closure in accordance with this Discharge Permit and all applicable laws and regulations. NMED will also advise the Permittee and all financial assurance providers, if applicable, of the conditions under which forfeiture may be avoided. Such conditions may include an agreement that the Permittee, a financial assurance provider, or an NMED-approved third party, will perform complete closure in accordance with this Discharge Permit and all applicable laws and regulations, and the entity has demonstrated it has the financial ability and technical qualifications to do so.

All financial assurance forfeited shall become immediately payable to the trust or as otherwise provided in the NMED-approved instrument. NMED or a third-party will utilize forfeited funds to perform complete closure. If the forfeited amount is insufficient, the Permittee shall be liable for the remaining costs. If the amount forfeited is more than necessary to complete closure, NMED will refund the excess amount to the entity from whom it was collected.

- G. Release: NMED will release or modify the financial assurance instrument when NMED determines that all activities of complete closure have been performed according to the closure plan requirements of this Discharge Permit and the Discharge Permit has been terminated.
- H. For permanent closure, the following closure actions shall be completed upon permanent cessation of wastewater discharge:
 1. Notify NMED of closure plans within 30 days of cessation.
 2. Provide NMED with a **Disposal Plan** for closure activities: Implement **Disposal Plan** upon NMED approval.
 3. Remove all manure solids and compost from surface areas.
 4. Empty all facility impoundments of wastewater within 6 months of cessation.
 5. Empty all facility impoundments of stormwater within 1 year of cessation.
 6. Complete removal of manure solids from wastewater impoundments within 2 years of cessation

7. Perforate or remove impoundment liner(s), as applicable, re-grade impoundments with clean fill, and blend area with surrounding surface topography to prevent ponding within 2 years of cessation
8. Dispose all wastes according the approved **Disposal Plan**.
9. Perform post-closure monitoring at facility monitoring wells, for all the wells on site for a minimum of eight consecutive groundwater sampling events to confirm that the standards of 20.6.2.3103 NMAC are not exceeded and the total nitrogen concentration in groundwater is less than or equal to 10 mg/L. If monitoring results show a failure of one or both of these conditions, the Permittee shall implement contingency requirements pursuant to 20.6.6.27 NMAC (**Section B103**).

B104 **Facility: Contingency Plan**

- A. In the event NMED or the Permittee identifies any failures of the Discharge Permit or system not specifically noted herein, NMED may require the Permittee to develop for NMED approval a contingency or corrective action plan and schedule to cope with the failure(s) [20.6.2.3107.A(10) NMAC].
- B. Facility conditions that will invariably require Permittee action under one or more contingency plans include:
 1. **Exceedance of groundwater quality standards** – Constituent concentration(s) in one or more groundwater samples collected from a monitoring well intended to monitor contamination sources at a dairy facility including impoundments exceed (1) one or more of the groundwater standards of 20.6.2.3103 NMAC and (2) reported constituent concentration(s) in one or more groundwater samples collected from the upgradient monitoring well for four consecutive quarters.
 2. **Ineffective groundwater monitoring well(s)** – One or more monitoring well(s) required by 20.6.6.23 NMAC are (1) not located hydrologically downgradient of the contamination source(s) intended to monitor, (2) not completed pursuant to 20.6.6.23 NMAC or (3) contains insufficient water to monitor groundwater quality effectively.
 3. **Exceedance(s) of permitted maximum daily discharge volume** - The maximum daily discharge volume authorized by this Discharge Permit is exceeded by more than ten percent for any four average daily discharge volumes within any 12-week period.
 4. **Insufficient impoundment capacity** - A survey, capacity calculations, or settled solids thickness measurements indicate an existing impoundment is not capable of meeting the capacity requirements required by 20.6.6.17(D) NMAC.
 5. **Inability to maintain required freeboard**- A minimum of two feet of freeboard cannot be preserved in one or more wastewater impoundment(s).
 6. **Impoundment(s) structural integrity compromised** - Any damage to the berms or the liner of an impoundment or any condition that exists that may compromise the structural integrity of the impoundment.

- 7. **Spills, leaks, unauthorized discharge** – Any spill or release that is not authorized under this Discharge Permit.

If a contingency or corrective action plan is required, the Permittee shall comply with the requirements of 20.6.2.1203 and 20.6.6.27 NMAC, and shall submit to NMED all information or documentation required by the applicable portions of 20.6.2.1203 and 20.6.6.27 NMAC. The Permittee may be required to abate water pollution pursuant to 20.6.2.4000 through 20.6.2.4115 NMAC, should the corrective action plan not result in compliance with the standards and requirements set forth in 20.6.2.4103 NMAC.

PART C GENERAL CONDITIONS

C100 Introduction

- A. NMED has reviewed the discharge permit application for the proposed renewal and has determined that the provisions of the Dairy Rule and applicable groundwater quality standards will be met in accordance with this Discharge Permit. General conditions for all Discharge Permits issued by the Ground Water Quality Bureau pursuant to NMAC 20.6.2 as well as specific conditions as applied to the operation and maintenance of a dairy facility with use of a land application area pursuant to 20.6.6 NMAC are summarized on **Table C1**. Unless otherwise specified in Parts A or B of this Discharge Permit, both the general discharge permit conditions (as listed in this part) and facility-specific conditions as listed in **Part B** are mandated to assure continued compliance.

**Table C1
 General Discharge Permit Conditions for a Dairy Facility:
 Existing with a Land Application Area**

Engineering and Surveying
a) Comply with the requirements of 20.6.6.17 NMAC and submit to NMED all information or documentation required by the applicable portions of 20.6.6.17 NMAC.
Operations and Maintenance
b) Comply with the requirements of 20.6.6.20 and 20.6.6.21 NMAC, and submit to NMED all information or documentation required by the applicable portions of 20.6.6.20 and 20.6.6.21 NMAC.
c) Operate in a manner such that standards and requirements of 20.6.2.3101 and 20.6.2.3103 NMAC are not violated.
d) Manage disposal of all manure solids and composted material generated at the facility in accordance with 20.6.6.20(S) NMAC.
e) Repair or replace compromised pipe(s) or fixture(s) within 72 hours of discovery. [20.6.6.20(Q) NMAC]
f) Manage all animal mortalities at the facility in compliance with 20.6.6.20(W) NMAC.
Inspection and Monitoring
g) Wastewater - Comply with the requirements of 20.6.6.24 and 20.6.6.25 NMAC, and submit to NMED all information or documentation required by the applicable portions of 20.6.6.24 and 20.6.6.25 NMAC.
h) Stormwater - Comply with the requirements of 20.6.6.24 and 20.6.6.25 NMAC, and submit to NMED all information or documentation required by the applicable portions of 20.6.6.24 and 20.6.6.25 NMAC.

**Table C1
 General Discharge Permit Conditions for a Dairy Facility:
 Existing with a Land Application Area**

<p>i) Groundwater - Comply with the requirements of 20.6.6.23 NMAC and submit to NMED all information or documentation required by the applicable portions of 20.6.6.23 NMAC.</p> <p>j) Visually inspect all facility pipes and fixtures on a weekly basis for evidence of leaks or failure. [20.6.6.20(Q) NMAC]</p>
<p>Recordkeeping and Reporting</p>
<p>k) Maintain written records at the dairy facility of any inspection(s), repairs and maintenance conducted on facility infrastructure as related the wastewater management system.</p> <p>l) Generate monitoring reports that contain monitoring data and information collected pursuant to the Dairy Rule and as described in applicable sections of this Discharge Permit.</p> <p>m) Retain required records for a minimum period of 10 years from the date of any sample collection, measurement, report or application in accordance with 20.6.6.33 NMAC.</p> <p>n) Unless otherwise identified in this Discharge Permit, submit monitoring reports to NMED quarterly according to the following schedule: [20.6.6.24(A) NMAC]</p> <ul style="list-style-type: none"> • January 1 through March 31 (first quarter) – report due by May 1 • April 1 through June 30 (second quarter) – report due by August 1 • July 1 through September 30 (third quarter) – report due by November 1 • October 1 through December 31 (fourth quarter) – report due by February 1 <p>o) Provide written notice to NMED regarding any changes to the presence of lactating cows at the facility to achieve compliance with 20.6.6.20(A) NMAC as follows:</p> <ul style="list-style-type: none"> • Verify with NMED within 30 days of the actual removal/reintroduction <p>p) Within 90 days of any addition or change to the dairy facility which affect one or more items listed in 20.6.6.20(U) NMAC, update and resubmit a facility map pursuant to 20.6.6.17(C) NMAC. [20.6.6.20(V) NMAC]</p>

C101 Legal

- A. Nothing in this Discharge Permit shall be construed in any way as relieving the Permittee of the obligation to comply with all applicable federal, state, and local laws, regulations, permits or orders [20.6.2 NMAC].

- A. Pursuant to 20.6.2.3109 NMAC, NMED reserves the right to require a Discharge Permit Modification in the event NMED determines that the requirements of 20.6.2 NMAC are being or may be violated or the standards of 20.6.2.3103 NMAC are being or may be violated. NMED may require more stringent requirements to protect groundwater quality if a determination that structural controls and/or management practices approved under this Discharge Permit are not protective of groundwater quality. NMED may require the Permittee to implement abatement of water pollution and remediate groundwater quality.

- B. Any violation of the requirements and conditions of this Discharge Permit, including any failure to allow NMED staff to enter and inspect records or facilities, or any refusal or failure to provide NMED with records or information, may subject the Permittee to a civil

enforcement action. Pursuant to WQA 74-6-10(A) and (B), such action may include a compliance order requiring compliance immediately or in a specified time, assessing a civil penalty, modifying or terminating the Discharge Permit, or any combination of the foregoing; or an action in district court seeking injunctive relief, civil penalties, or both. Pursuant to WQA 74-6-10(C) and 74-6-10.1, civil penalties of up to \$15,000 per day of noncompliance may be assessed for each violation of the WQA 74-6-5, the WQCC Regulations, or this Discharge Permit, and civil penalties of up to \$10,000 per day of noncompliance may be assessed for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision. In any action to enforce this Discharge Permit, the Permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Discharge Permit. [74-6-10 WQA, 74-6-10.1 WQA]

- C. Pursuant to WQA 74-6-10.2(A-F), NMED shall assess criminal penalties for any person who knowingly violates or knowingly causes or allows another person to:
1. Make any false material statement, representation, certification or omission of material fact in an application, record, report, plan or other document filed, submitted or required to be maintained under the WQA;
 2. Falsify, tamper with or render inaccurate any monitoring device, method or record required to be maintained under the WQA; or
 3. Fail to monitor, sample or report as required by a permit issued pursuant to a state or federal law or regulation, is subject to felony charges and shall be sentenced in accordance with the provisions of 31-18-15 NMSA 1978.

The Permittee shall notify the proposed transferee in writing of the existence of this Discharge Permit and include a copy of this Discharge Permit with the notice in accordance with 20.6.2.3111 NMAC, prior to the transfer of any ownership, control, or possession of this permitted facility or any portion thereof. The transferee(s) shall notify NMED, in writing, of the date of transfer of ownership and provide contact information for the new owner(s) pursuant to 20.6.6.12(B) NMAC. Submit to NMED notification of the transfer within 30 days of the ownership transfer date. [20.6.6.34 NMAC]

Pursuant to WQA 74-6-5(o), the Permittee has a right to appeal the conditions and requirements as outlined in this Discharge Permit through filing a petition for review before the WQCC. Such petition shall be in writing to the WQCC within thirty (30) days of the receipt of this Discharge Permit. Unless a timely petition for review is made, the decision of NMED shall be final and not subject to judicial review.

C102 General Inspection and Entry Requirements

- A. Nothing in this Discharge Permit shall limit in any way the inspection and entry authority of NMED under the WQA, the WQCC Regulations, or any other applicable law or regulation. [20.6.2.3107 NMAC, 74-6-9(B) & (E) WQA]
- B. The Permittee shall allow the Secretary or an authorized representative, upon the presentation of credentials, to [20.6.2.3107.D NMAC, 74-6-9(B) & (E) WQA]:

1. Enter at regular business hours or at other reasonable times upon the Permittee's premises or other location where records must be kept under the conditions of this Discharge Permit, or under any federal or WQCC regulation.
2. Inspect and copy, during regular business hours or at other reasonable times, any records required to be kept under the conditions of this Discharge Permit, or under any federal or WQCC regulation.
3. Inspect, at regular business hours or at other reasonable times, any facility, equipment (including monitoring and control equipment or treatment works), practices or operations regulated or required under this Discharge Permit, or under any federal or WQCC regulation.
4. Sample or monitor, at reasonable times for the purpose of assuring compliance with this Discharge Permit or as otherwise authorized by the WQA, any effluent, water contaminant, or receiving water at any location before or after discharge.

C103 General Record Keeping and Reporting Requirements

- A. The Permittee shall maintain a written record of the following:
 1. Amount of wastewater, effluent, leachate or other wastes discharged pursuant to this Discharge Permit. [20.6.2.3107.A NMAC]
 2. Operation, maintenance, and repair of all facilities/equipment used to treat, store or dispose of wastewater; to measure flow rates, to monitor water quality, or to collect other data required by this Discharge Permit. Per 20.6.2.3107.A NMAC, this record shall include:
 - a. Repair, replacement or calibration of any monitoring equipment
 - b. Repair or replacement of any equipment used in the Permittee's waste or wastewater treatment and disposal system.
 3. Any spills, seeps, and/or leaks of effluent, and of leachate and/or process fluids not authorized by this Discharge Permit. [20.6.2.3107.A NMAC]
- B. The Permittee shall maintain at its facility a written record of all data and information related to field measurements, sampling, and analysis conducted pursuant to this Discharge Permit. The following information shall be recorded and shall be made available to NMED upon request:
 1. The dates, exact place and times of sampling or field measurements;
 2. The name and job title of the individuals who performed each sample collection or field measurement;
 3. The date of the analysis of each sample;
 4. The name and address of the laboratory and the name and job title of the person that performed the analysis of each sample;
 5. The analytical technique or method used to analyze each sample or take each field measurement;

6. The results of each analysis or field measurement, including raw data;
 7. The results of any split sampling, spikes or repeat sampling; and
 8. A description of the quality assurance (QA) and quality control (QC) procedures used.
- C. The Permittee shall furnish to NMED, within a reasonable time, any documents or other information which it may request to determine whether cause exists for modifying, terminating and/or renewing this Discharge Permit or to determine compliance with this Discharge Permit. The Permittee shall also furnish to NMED, upon request, copies of documents required to be kept by this Discharge Permit. [20.6.2.3107.D NMAC, 74-6-9(B) & (E) WQA]

C104 Modifications and/or Amendments

- A. The Permittee shall notify NMED of any changes to the Permittee's wastewater treatment and disposal system, including any changes in the wastewater flow rate or the volume of wastewater storage, or of any other changes to operations or processes that would result in any significant change in the discharge of water contaminants. The Permittee shall obtain NMED's approval, as a modification to this Discharge Permit pursuant to 20.6.2.3109(E, F, or G) NMAC, prior to any increase in the quantity discharged, or any increase in the concentration of water contaminants discharged, above those levels approved in this Discharge Permit [20.6.2.3107.C NMAC].
- B. The Permittee shall file plans and specifications with NMED for the construction of a wastewater system and for proposed changes that will change substantially the quantity or quality of the discharge from the system. The Permittee shall file plans and specifications prior to the commencement of construction. Changes to the wastewater system having a minor effect on the character of the discharge shall be reported as of January 1 and June 30 of each year to NMED. [20.6.2.1202 NMAC]

Part D MISCELLANEOUS

D100 Supporting On-Line Documents

- A. Copies of the following documents can be downloaded from NMED's web site under Forms.

<https://www.env.nm.gov/forms/>

1. Notice of Intent to Discharge
1. Application for a New Discharge Permit (dairy facility only)
2. Application for Discharge Permit Renewal and/or Modification (dairy facility only)
3. Application for Discharge Permit Renewal for Closure (dairy facility only)

D101 Definitions

- A. **“abatement plan”** means a description of any operational, monitoring, contingency and closure requirements and conditions for the prevention, investigation and abatement of water pollution, and includes Stage 1, Stage 2, or Stage 1 and 2 of the abatement plan, as approved by the secretary
- B. **“commission”** means:
 - 1. the New Mexico water quality control commission (WQCC), or
 - 2. NMED, when used in connection with any administrative and enforcement activity
- C. **“dairy facility”** means the production area and the land application area, where the discharge and associated activities will or do take place
- D. **“Dairy rule”** means 20.6.6 NMAC, as amended
- E. **“NMED”, “agency”, or “division”** means the New Mexico Environment Department or a constituent agency designated by the **commission**

“discharge permit” means a discharge plan approved by NMED

“discharge permit modification” means a change to the requirements of a discharge permit that result from a change in the location of the discharge, a significant increase in the quantity of the discharge, a significant change in the quality of the discharge; or as required by the secretary

“discharge permit renewal” means the re-issuance of a discharge permit for the same, previously permitted discharge

“discharge plan” means a description of any operational, monitoring, contingency, and closure requirements and conditions for any discharge of effluent or leachate which may move directly or indirectly into groundwater

“discharge site” means the entire site where the discharge and associated activities will take place

“discharge volume” means the measured daily volume of wastewater actually discharged within the production area. This definition does not include the volume of wastewater discharged to a land application area (if applicable).

“disposal” means to abandon, deposit, inter or otherwise discard a fluid as a final action after its use has been achieved

“existing dairy facility” means a dairy facility that is currently discharging, or has previously discharged and has not been issued a notice from NMED verifying that closure and post-closure monitoring activities have been completed

“fluid” means material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state

“flow meter” means a device used to measure the volume of water, wastewater or stormwater that passes a particular reference section in a unit of time

“freeboard” means the vertical distance between the elevation at the lowest point of the top inside edge of the impoundment and the design high water elevation of the water level in the impoundment

“groundwater” means interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply

“impoundment” means any structure designed and used for storage or disposal by evaporation of wastewater, stormwater, or a combination of both wastewater and stormwater. A multiple-cell impoundment system having at least one shared berm or barrier whose smallest cells have a cumulative constructed capacity of 10 percent or less of the constructed capacity of the largest cell shall be considered a single impoundment for the purposes of the Dairy Rule. A wastewater or stormwater transfer sump or a solids settling separator is not an impoundment

“manure” means an agricultural waste composed of excreta of animals, and residual bedding materials, waste feed or other materials that have contacted excreta from such animals

“maximum daily discharge volume” means the total daily volume of wastewater (expressed in gallons per day) authorized for discharge by a discharge permit. This definition does not include the volume of wastewater discharged to a land application area (as applicable)

“owner of record” means an owner of property according to the property records of the tax assessor in the county in which the discharge site is located at the time the application was deemed administratively complete

“permittee” means a person who is issued or receives by transfer a discharge permit for a dairy facility or, in the absence of a discharge permit, a person who makes or controls a discharge at a dairy facility.

“production area” means that part of the animal feeding operation that includes the following: the animal confinement areas; the manure, residual solids and compost storage areas; the raw materials storage areas; and the wastewater and stormwater containment areas. The animal confinement areas include but are not limited to open lots, housed lots, feedlots, confinement barns, stall barns, free stall barns, milkrooms, milk centers, cowyards, barnyards, hospital pens and barns, and animal walkways. The manure, residual solids and compost storage areas include, but are not limited to, storage sheds, stockpiles, static piles, and composting piles. The raw materials storage areas include, but are not limited, to feed silos, silage storage areas, feed storage barns, and liquid feed tanks. The wastewater and stormwater containment areas include, but are not limited to, settling separators, impoundments, sumps, run-off drainage channels, and areas within berms and diversions which prohibit uncontaminated stormwater from coming into contact with contaminants

“responsible person” means a person who is required to submit a discharge permit or who submits a discharge permit

“secretary” or **“director”** means the secretary of the New Mexico Environment Department or the director of a constituent agency designated by the **commission**

"**spillway**" means a structure used for controlled releases from an impoundment designed to receive stormwater, in a manner that protects the structural integrity of the impoundment

"**stormwater**" means direct precipitation and run-off that comes into contact with water contaminants within the production area of a dairy facility

"**TDS**" means total dissolved solids as determined by the "calculation method" (sum of constituents), by the "residue on evaporation method at 180 degrees" of the "U.S. geological survey techniques of water resource investigations," or by conductivity, as the secretary may determine

"**toxic pollutant**" means a water contaminant or combination of water contaminants in concentration(s) which, upon exposure, ingestion, or assimilation either directly from the environment or indirectly by ingestion through food chains, will unreasonably threaten to injure human health, or the health of animals or plants which are commonly hatched, bred, cultivated or protected for use by man for food or economic benefit; as used in this definition injuries to health include death, histopathologic change, clinical symptoms of disease, behavioral abnormalities, genetic mutation, physiological malfunctions or physical deformations in such organisms or their offspring; in order to be considered a toxic pollutant a contaminant must be one or a combination of the potential toxic pollutants listed below and be at a concentration shown by scientific information currently available to the public to have potential for causing one or more of the effects listed above; any water contaminant or combination of the water contaminants in the list below creating a lifetime risk of more than one cancer per 100,000 exposed persons is a toxic pollutant. The list of **toxic pollutants** recognized by NMED can be found in 20.6.2.7(T) NMAC.

"**unauthorized discharge**" means a release of wastewater, stormwater or other substances containing water contaminants not approved by a discharge permit

"**wastewater**" means water, that has come into contact with water contaminants as a result of being directly or indirectly used in the operations of a dairy facility including, but not limited to, the following: washing, cleaning, or flushing barns or other roof-covered production areas; washing of animals; spray-cooling of animals (except in open lots); and cooling or cleaning of feed mills and equipment. Wastewater does not include overflow from the drinking water system or stormwater unless overflow or stormwater that is collected is comingled with wastewater, or it comes into contact with water contaminants as a result of being directly or indirectly used in dairy facility operations

"**wastes**" means sewage, industrial wastes, or any other liquid, gaseous or solid substance which will pollute any waters of the state

"**water**" means all water including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water

"**water contaminant**" means any substance that could alter if discharged or spilled the physical, chemical, biological or radiological qualities of water; "**water contaminant**" does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954

“**water pollution**” means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property

D102 **Acronyms**

CQA.....	construction quality assurance
CQC.....	construction quality control
DP	discharge permit
FEMA	federal emergency management administration
FIRM	flood insurance rate map
gpd.....	gallon per day
mg/L.....	milligram per liter
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMP.....	Nutrient Management Plan
NMSA.....	New Mexico Statutes Annotated
PWRS.....	Process Water Retention Structure
RCS.....	Runoff Control Structure
TDS.....	total dissolved solids
WQA	New Mexico Water Quality Act
WQCC	Water Quality Control Commission

draft