



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

February 27, 2023

James Esbenshade, Owner
Stateline Ranch
2174 Hendrix Rd
Colbert, OK 74733

RE: Draft New Discharge Permit, DP-1955, Stateline Ranch

Dear James Esbenshade:

The New Mexico Environment Department (NMED) hereby provides notice to you of the proposed approval of New Ground Water Discharge Permit, DP-1955, (copy enclosed), pursuant to Subsection H of 20.6.2.3108 NMAC. NMED will publish notice of the availability of the draft Discharge Permit in the near future for public review and comment and will forward a copy of that notice to you.

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. A hearing request shall set forth the reasons why a hearing is requested. NMED will hold a hearing in response to a timely hearing request if the NMED Secretary determines there is substantial public interest in the proposed Discharge Permit.

Please review the enclosed draft Discharge Permit carefully. Please be aware that this Discharge Permit may contain conditions that require the permittee to implement operational, monitoring or closure actions by a specified deadline.

Please submit written comments or a request for hearing to my attention at the address below, through the online portal accessible at <https://nmed.commentinput.com/comment/search> or via email to Jaben.richards@env.nm.gov or acs.general@env.nm.gov. If NMED does not receive written comments or a request for hearing during the public comment period, the draft Discharge Permit will become final.

Thank you for your cooperation during the review process. Feel free to contact me with any questions at Jaben.richards@env.nm.gov or acs.general@env.nm.gov

Sincerely,

Jaben Richards
Team Leader

SCIENCE | INNOVATION | COLLABORATION | COMPLIANCE

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/

Enc: Draft New Discharge Permit, DP-1955

cc: Joey Schmidt, Central Law office PC, jamie@gotebolaw.com
ACS Reading File



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Draft: February 27, 2023

**GROUND WATER QUALITY BUREAU
DISCHARGE PERMIT – NEW
Issued under 20.6.2 NMAC**

Facility Name: Stateline Ranch
Discharge Permit No: DP-1955
Permittee Name: James Esbenshade
Mailing Address: 2174 Hendrix Rd
Colbert, OK 74733

Facility Location: 1698 Curry Road Z Melrose, NM 88124
Sections 4, 9 and 10, Township 03N, Range 33E

County: Curry

Permitting Action: **New**
Source Classification: Agriculture – Crop/Food Processing

Permit Issuance Date: DATE
Permit Expiration Date: DATE

NMED Permit Contact: Jaben Richards
Telephone Number/Email: (505)-660-8376 / Jaben.richards@env.nm.gov or
Main Bureau/Section Contact (505) 827-2900/ acs.general@env.nm.gov

JUSTIN BALL
Chief, Ground Water Quality Bureau
New Mexico Environment Department

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PART A GENERAL INFORMATION

A100 Introduction

- A. The New Mexico Environment Department (NMED) issues this New Discharge Permit (Discharge Permit), **DP-1955**, to James Esbenshade (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. NMED's purpose in issuing this Discharge Permit is to control the discharge of water contaminants from Stateline Ranch (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.
- B. The Permittee will discharge up to 16,000 gallons per day (gpd) of effluent from the processing of vegetable fat onto pasture and cropland at Stateline Ranch. 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 Subsection A of 20.6.2.3101 NMAC, without exceeding standards of 20.6.2.3103 NMAC for any water contaminant.
- C. In issuing this Discharge Permit, NMED has determined that the Permittee has met the requirements of Subsection C of 20.6.2.3109 NMAC. Pursuant to Section 20.6.2.3104 NMAC, it is the Permittee's responsibility to comply with the terms and conditions of this Discharge Permit; failure to do so may result in enforcement action by NMED (20.6.2.1220 NMAC).

A101 Terms of Permit Issuance

- A. **Permit Duration** - Pursuant to WQA 74-6-5(I) and Subsection H of 20.6.2.3109 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** – Payment of permit fees is due at the time of Discharge Permit approval. Permit fees shall be paid in a single payment or shall be paid in equal installments on a yearly basis over the term of the Discharge Permit. Single payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date. Initial installment payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date; subsequent installment payments shall be remitted to NMED no later than the anniversary of the Discharge Permit effective date. Permit fees are associated with issuance of this Discharge Permit. Nothing in this Discharge Permit relieves the Permittee of the obligation to pay all permit fees assessed by NMED. A Permittee that ceases discharging or does not commence discharging from the facility during the term of the Discharge Permit shall pay all permit fees assessed by NMED. An approved Discharge Permit shall be suspended or terminated if the facility fails to remit an installment payment by its due date. [Subsection F of 20.6.2.3114 NMAC, NMSA 1978, § 74-6-5.K]

- C. **Permit Renewal** - To renew this Discharge Permit, the Permittee shall submit, in accordance with 20.6.2.3106 NMAC, an application and any associated fees for renewal, renewal and modification, or renewal for closure at least 120 days before the discharge permit expiration date, unless closure of the facility is approved by NMED before that date.
- D. **Transfer of Ownership** - This Discharge Permit is being issued to James Esbshade as identified in **Section A100** above. In accordance with Section 20.6.2.3111 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. If during the duration of this Discharge Permit a change in the list of responsible parties is required, transfer of ownership shall be completed in accordance with Section 20.6.2.3111(A).

A102 Applicable Regulations

- A. **Scope** - This Discharge Permit applies solely for the regulation of process wastewater or stormwater generated from facility operations and does not include regulation of domestic wastewater at the facility. Domestic wastewater generated at the facility is treated or disposed of pursuant to 20.7.3 NMAC.
- B. The discharge from the facility is not subject to any of the exemptions of Section 20.6.2.3105 NMAC.
- C. Groundwater quality as observed in on-site monitoring wells is subject to the criteria of Sections 20.6.2.3101 and 20.6.2.3103 NMAC unless otherwise specified in this Discharge Permit.
- D. Complying with the applicable requirements of 20.6.2 NMAC does not relieve a facility's owner, operator or Permittee from complying with the requirements of other applicable local, state and federal regulations or laws.

A103 Facility: Physical Description

- A. This facility is located at 1698 Curry Road Z, approximately 10 miles northeast of Melrose, in Sections 4, 9, and 10, Township 03N, Range 33E, Curry County.
- B. This facility is comprised of the following wastewater system components as identified in the application dated August 30, 2022:
 - 1. Fields or tracts within the land application area or surface disposal area:
 - a. **Field 1** – 150 acres and comprises the northwest corner of the property. Wastewater is applied by tanker truck.
 - b. **Field 2** - 150 acres and comprises the southwest corner of the property. Field 2 has received wastewater in the past. Wastewater is applied by tanker truck.
 - c. **Field 3** - 150 acres and comprises the southeast corner of the property. Wastewater is applied by tanker truck.

These system components identified are potential sources of groundwater contamination. **Section B100** lists all wastewater system components authorized to discharge under this Discharge Permit.

A104 Facility: Documented Hydrogeologic Conditions

- A. Groundwater most likely to be affected at this facility is at a depth of approximately 346 feet and had a total dissolved solids concentration of 496 milligrams per liter.
- B. There are no perennial surface waters existing within the bounds of the facility. The closest surface water system is an unclassified intermittent tributary to Running Water Draw, located in the Brazos Headwaters Sub-Basin (Hydrologic Unit Code 12050005). Running Water Draw is approximately 6 miles northwest of the northwest corner of Stateline ranch. Running Water Draw headwaters 20 miles northwest of the facility, near Field, New Mexico, trending southeasterly for approximately 115 miles to its confluence with White River which is located near Plainview, Texas.

PART B DISCHARGE REQUIREMENTS

B100 Facility: Authorized Discharge

- A. NMED authorizes the Permittee to discharge water contaminants as part of facility operations subject to the following requirements:
 - 1. The Permittee is authorized to discharge up to 16,000 gpd of wastewater from the production area. Wastewater is generated offsite and is land applied by tanker truck on up to 450 acres of pasture and cropland at Stateline Ranch.
 - 2. The Permittee is authorized to apply wastewater to fields within the land application area in accordance with Subsection C of 20.6.2.3109 NMAC. The land application area is comprised of the following fields for a total area of 450 acres.
 - a. **Field 1** –This field is authorized to receive wastewater and *has not* received wastewater as of the effective date of this Discharge Permit.
 - b. **Field 2** –This field is authorized to receive wastewater and *has* received wastewater as of the effective date of this Discharge Permit.
 - c. **Field 3** –This field is authorized to receive wastewater and *has not* received wastewater as of the effective date of this Discharge Permit.
- B. 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 to Section 20.6.2.1203 NMAC.

B101 Existing System Controls

- A. The following existing system controls at this facility shall be required as described below:

3. **Wells** - The facility uses the following well to supply data representative of groundwater quality [Subsection A of 20.6.2.3107 NMAC]:
 - a. **CC-753** – a livestock well located south of Field 2.

B102 Conditions for Operation

A. NMED has reviewed the permit application for the proposed facility and has determined that the provisions of the 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 are summarized on **Table B1**. Unless otherwise specified in Parts A or B of this Discharge Permit, both the general conditions for a facility discharge permit (as listed in this part) and facility-specific conditions as listed are mandated to assure continued compliance.

**Table B1
 General Discharge Permit Conditions:**

Engineering and Surveying
a) The Permittee shall submit written notification to NMED stating the date the discharge is to commence. [Subsection A of 20.6.2.3107 NMAC, Subsection H of 20.6.2.3109 NMAC]
Operations and Maintenance
b) Operate in a manner such that standards and requirements of Sections 20.6.2.3101 and 20.6.2.3103 NMAC are not violated.
c) Maintain all signage indicating that the wastewater at the facility is not potable. All signage shall be printed in English and Spanish and shall remain visible and legible.
Inspection and Monitoring
d) None required.
Recordkeeping and Reporting
e) Conduct the monitoring, reporting, and other requirements in accordance with the monitoring requirements of this Discharge Permit. [Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]
f) Unless otherwise specified by this Discharge Permit, or approved in writing by NMED, the Permittee shall use sampling and analytical techniques that conform with the references listed in Subsection B of 20.6.2.3107 NMAC
g) Unless otherwise identified in this Discharge Permit, submit monitoring reports to NMED annually according to the following schedule: [Subsection A of 20.6.2.3107 NMAC] <ul style="list-style-type: none"> • January 1 through December 31 – report by May 1
h) Retain required records for a minimum period of five years from the date of any sample collection, measurement, report or application in accordance with 20.6.2.3107 NMAC, 74-6-5 WQA.

- B. **Wastewater** - The Permittee shall manage wastewater at the facility in accordance with 20.6.2.3107 and 20.6.2.3109 NMAC and the conditions summarized in **Table B2** below.

Table B2
Wastewater

Engineering, Surveying and Construction and/or Improvements
a) None required.
Operations and Maintenance of All Wastewater
b) None required.
Inspection and Monitoring All Wastewater
c) The Permittee shall collect a composite wastewater sample on a quarterly basis. The composite sample shall consist of a minimum of three grab samples being collected from each of the tanker truck(s) being utilized on the day of sampling and thoroughly mixed into one composite sample for analysis. The composite sample shall be analyzed for TKN, NO ₃ -N, TDS and Cl. Samples shall be properly prepared, preserved, transported and analyzed in accordance with the methods authorized in this Discharge Permit. Analytical results shall be submitted to NMED in the Annual Monitoring Report .
Recordkeeping and Reporting All Wastewater
<p>d) Report any unauthorized discharges to NMED pursuant to 20.6.2.1203 NMAC.</p> <p>e) Unless otherwise specified in this Discharge Permit, submit all monitoring information in accordance with the general reporting schedule listed in Table B1 of this Discharge Permit.</p> <p>f) Maintain written records at the facility of all facility inspections including repairs and replacements.</p> <p>g) The Permittee shall ensure a waste manifest exists for each load of waste received and disposed of at the Facility. The Permittee shall retain all manifests and shall make them available to NMED upon request.</p> <p>Each manifest shall record the following information:</p> <ul style="list-style-type: none"> • date of waste shipment receipt; • volume of waste shipment; • location of any intermediary, company owned waste processing facility; • name and address of the waste origin; • name of the waste hauling company; • name of the driver; • confirmation of inspection for acceptable waste type; and • signature of person conducting the inspection. <p>The Permittee shall submit a summary listing the information from each manifest for wastes received during the reporting period to NMED in the Annual monitoring report.</p> <p>[Subsection A of 20.6.2.3107 NMAC, NMSA 1978, § 74-6-5.D]</p>

- C. **Land Application Area Management** - The Permittee shall manage all land application areas at the facility in accordance with 20.6.2.3101 NMAC and the conditions summarized in **Table B3** below.

Table B3
Land Application Area Management

Engineering and Surveying
<p>a) If crops will be harvested: prior to discharging to the land application area, the Permittee shall submit documentation of irrigation water rights from the Office of the State Engineer for all fields within the land application area. The Permittee shall demonstrate adequate irrigation water rights are held for irrigation for the term of this Discharge Permit, to produce and harvest crops necessary for the removal of nitrogen.</p> <p>b) Any irrigation or supply wells located within the land application area shall have a surface pad constructed in accordance with the recommendations of Subsection G of 19.27.4.29 NMAC and a permanent well cap or cover pursuant to Subsection I of 19.27.4.29 NMAC.</p>
Operations and Maintenance All Land Application Areas
<p>c) If crops will not be grown or harvested: the Permittee shall discharge wastewater to each field within the land application area such that the amount of total nitrogen discharged does not exceed 200 pounds per acre in any 12-month period. Nitrogen content shall not be adjusted to account for volatilization or mineralization processes. Wastewater shall be distributed evenly throughout the entire field. Excessive ponding shall be prevented.</p> <p>d) If crops will be harvested: the Permittee shall apply wastewater to each field within the land application area containing a crop(s) under cultivation such that the amount of total nitrogen in the combined application of wastewater and fertilizer does not exceed by more than 25% the amount reasonably expected to be taken up by the crop(s) and removed by harvesting in any 12-month period. Nitrogen content shall not be adjusted to account for volatilization or mineralization processes. Wastewater shall be distributed evenly throughout the land application area. Excessive ponding shall be prevented.</p> <p>a) If crops will be harvested: remove crops from fields within the land application area by mechanical harvest or grazing in a manner consistent with an approved NMP [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]</p> <p>k) If crops will be harvested: crops may be grazed prior to and between mechanical harvests and nitrogen removal, however, nitrogen removal credit cannot be taken for grazing activities unless a grazing plan is developed and submitted as part of an approved NMP.</p>
Inspection and Monitoring All Land Application Areas
<p>e) Perform initial and routine soil sampling in each field within the land application area. Report analytical results and provide a map depicting the soil sampling locations within each field annually to NMED as part of the Annual Monitoring Report due May 1st. Composite soil samples shall be collected in the five-month period between September 1 and January 31 for all fields regardless of whether the field is cropped, remains fallow, or has received wastewater. One surface composite soil sample (first-foot) and two sub-surface composite soil samples (second-foot and third-foot) shall be collected from each field. Composite soil samples shall be collected and analyzed according to the following procedure:</p>

Table B3
Land Application Area Management

- i. Each surface and sub-surface soil sample shall consist of a single composite of 15 soil cores collected randomly throughout each field. Should a field consist of different soil textures (i.e., sandy and silty clay), a composite soil sample shall be collected from each soil texture within each field.
 - Surface soil samples (first-foot) shall be collected from a depth of 0 to 12 inches.
 - Each second-foot sub-surface soil sample shall be collected from a depth of 12 to 24 inches.
 - Each third-foot sub-surface soil sample shall be collected from a depth of 24 to 36 inches.
- ii. Each surface and sub-surface composite sample shall be analyzed for pH, electrical conductivity (EC), TKN, NO₃-N, Cl, organic matter (OM), potassium (K), phosphorus (P), sodium (Na), calcium (Ca), magnesium (Mg), sulfate (SO₄), soil texture and determination of the sodium adsorption ratio (SAR).
- iii. Soil samples shall be analyzed in accordance with the analytical methodology required by this Discharge Permit. Soil pH, EC, Na, Ca, Mg and SO₄ shall be analyzed using a saturated paste extract. Soil P shall be analyzed using the Olsen sodium bicarbonate method. Soil NO₃-N shall be analyzed by a 2 molar KCl extract.

Recordkeeping and Reporting All Land Application Areas

- f) If crops will be harvested: submit an initial **NMP** to NMED in accordance with the requirements listed in Subsection I of 20.6.6.21 by **May 1** of the first year of the effective date (by **DATE**) of this Discharge Permit. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
- g) If crops will be harvested: submit annual updates to the approved **NMP** to NMED as part of the **Annual Monitoring Report** due **May 1**. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
- h) 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**.
- i) The Permittee shall collect fresh irrigation water samples from irrigation wells used to supply fresh water to fields within the land application area to account for potential nitrogen supplied to the land application area from fresh irrigation water sources. Each irrigation well shall be identified in association with the field(s) to which it supplies fresh water. A sample shall be collected from each irrigation well annually and analyzed for **NO₃-N and TKN**. Analytical results shall be submitted to NMED in the **Annual Monitoring Report due by May 1**.
- j) If crops are harvested: the Permittee shall determine the total nitrogen concentration of each harvested crop grown to verify plant nitrogen removal levels. A composite sample consisting of 15 sub-samples of plant material shall be taken from each field during the final harvest of each crop grown per year. Samples shall be analyzed for percent total nitrogen and percent dry matter. Analytical reports shall be submitted to NMED in the **Annual Monitoring Report**.
- k) If crops are harvested: yield documentation and plant and harvest dates of each crop grown shall be submitted to NMED in the **Annual Monitoring Report**. Yield documentation shall consist of scale-weight tickets or harvest summaries based on scale-weights.

**Table B3
 Land Application Area Management**

<p>l) 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>Submit a copy of the current log to NMED as part of each Annual Monitoring Report.</p> <p>m) If crops are not harvested, the Permittee shall complete Surface Disposal Data Sheets (SDDS; copy enclosed) on a monthly basis that document the amount of nitrogen applied to each field during the most recent 12 months. The SDDS shall reflect the total nitrogen concentration from the most recent wastewater analysis and the measured discharge volumes to each field for each month. The SDDS shall be completed with information above or shall include a statement that wastewater disposal did not occur. The SDDS shall be submitted to NMED in the Annual Monitoring Report.</p> <p>n) If crops are harvested: the Permittee shall complete LADS (copy enclosed) on a monthly basis that document the amount of nitrogen applied to each field within the land application area during the most recent 12 months. The LADS shall reflect the total nitrogen concentration from the most recent wastewater analysis and the measured discharge volumes to each field within the land application area for each month. The Permittee shall also report on the LADS the amount of nitrogen (fertilizer, wastewater, etc.) applied, crops grown along with planting and harvest dates, crop yield (tons per acre) and nitrogen concentration of the harvested crop specific to the crops grown. The LADS shall be completed with information above or shall include a statement that application of wastewater did not occur. The LADS shall be submitted to NMED in the Annual Monitoring Report.</p>

D. **Solids Management** - The Permittee shall manage all solids at the facility in accordance with 20.6.2.3101 NMAC and the conditions summarized in **Table B4** below.

**Table B4
 Solids Management**

Engineering and Surveying
a) None required.
Operations and Maintenance
b) The Permittee shall separate the solids from the wastewater before the wastewater is transported to the site. Disposal of solids on the land application area is prohibited.
Inspection and Monitoring
c) None required.
Recordkeeping and Reporting

**Table B4
 Solids Management**

d) None required.

- E. **Flow Meters** – Pursuant to 20.6.2.3107 (A) and 20.6.2.3109 (C), 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 facility. All flow meters employed at the facility shall be managed in accordance with the conditions listed in **Table B5** below.

**Table B5
 Flow Meters**

Engineering and Surveying
a) None required.
Operations and Maintenance
b) None required.
Inspection and Monitoring
c) The Permittee shall provide evidence of the volume of the tank truck as required in Table B2g) and count the number of loads applied to each land application/surface disposal zone to determine the volume of wastewater applied. Partial loads shall be measured via a site gauge, dipstick, or other approved method.
d) The Permittee shall measure the monthly volume discharged from the tanker trucks to each field within the land application area. The Permittee shall maintain a log that records the date that discharges occur to each field, monthly tanker truck loads and units of measurement. The log shall be used to calculate the total monthly volume of wastewater discharged to each field. The monthly volume discharged to each field shall be used on the LADS to calculate nitrogen loading. A copy of the log shall be submitted to NMED in the Annual Monitoring Report due by DATE .
Recordkeeping and Reporting
e) Record the volume of wastewater applied (without adjustments or deductions) and submit in the Annual Monitoring Report due by DATE . Include the date, time and units of each measurement (tanker truck loads or gallons), and calculations for the average daily volumes of wastewater applied, reported in gallons per day.

- F. **Monitoring Well(s)** - Pursuant to 20.6.2.3107 (A) and 20.6.2.3109 (C), the Permittee is required to install monitoring wells at appropriate depths and locations to monitor groundwater quality. The approved groundwater monitoring well system at the facility is detailed in **Table B6** below.

**Table B6
 Groundwater Monitoring Wells**

Engineering and Surveying

Table B6
Groundwater Monitoring Wells

a) If the deep soil samples (24-36 inches) required in Table B3e) ever exceed the threshold value of 50 mg/kg nitrate-N, the Permittee shall submit a written monitoring well location proposal within 60 days following the effective date of this Discharge Permit (**by DATE**), for review and approval by NMED. The proposal shall identify existing wells that may be utilized to monitor groundwater quality. If appropriate existing wells are not identified, the permittee shall designate the locations of all monitoring wells required to be installed by this Discharge Permit. The proposal shall include, at a minimum, the following information:

- 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 synthetically lined impoundment; 30 feet southeast of the land application area; 150 degrees from north
- A statement describing groundwater flow direction beneath the facility, and documentation and/or data supporting the determination

All proposed monitoring well locations shall be approved by NMED prior to installation. [NMSA 1978, § 74-6-5.D, Subsection B of 20.6.2.3109 NMAC]

b) Survey all **new** facility groundwater monitoring wells upon installation in accordance with Subsection A of 20.6.2.3107 NMAC.

c) Within 90 days following the effective date of this Discharge Permit (**by DATE**), the Permittee shall construct a surface pad and provide a permanent well cap cover for each supply well located within the land application area. The surface pad shall be constructed in accordance with the recommendations of Subsection G of 19.27.4.29 NMAC and the well cap installed pursuant to Subsection I of 19.27.4.29 NMAC. Written confirmation of installation of these well protection measures, including photographic documentation, shall be submitted to NMED within 180 days following the effective date of this Discharge Permit (**by DATE**).

Operations and Maintenance

d) If a monitoring well location proposal is required as per the condition listed in Table B6a) and no existing wells are appropriate to monitor groundwater quality at the facility then new wells must be installed: Within 120 days following written approval from NMED for proposed monitoring well location(s), install and complete the following additional groundwater monitoring wells:

- **MW-1**, hydrologically upgradient of all fields within the land application area.
- **MW-2**, hydrologically downgradient of Field 3 which makes up the southeastern portion of the property.
- **MW-3**, hydrologically downgradient of Field 1 which makes up the northwestern portion of the property.

All new wells shall be completed in accordance with the attachment titled *Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions, Revision 1.1, March 2011*. Construction and lithologic logs shall be submitted to NMED within 30 days of well completion.

Table B6
Groundwater Monitoring Wells

e) Following installation of the monitoring wells required by this Discharge Permit, the Permittee shall sample groundwater in the wells and analyze the samples for dissolved TKN, NO₃-N, TDS and Cl. Groundwater sample collection, preservation, transport and analysis shall be performed according to the following procedure:

- Measure the depth-to-most-shallow groundwater from the top of the well casing to the nearest hundredth of a foot.
- Purge three well volumes of water from the well prior to sample collection.
- Obtain samples from the well for analysis.
- Properly prepare, preserve and transport samples.
- Analyze samples in accordance with the methods authorized in this Discharge Permit.

Depth-to-most-shallow groundwater measurements, analytical results, including the laboratory QA/QC summary report, and a facility layout map showing the location and number of each well shall be submitted to NMED within 30 days of the completion of the monitoring well survey.

Inspection and Monitoring

f) If groundwater monitoring wells are required, perform annual groundwater sampling for all facility monitoring wells as identified in Section B101 A.3 and analyze the samples for dissolved TKN, NO₃-N, TDS and Cl. Groundwater sample collection, preservation, transport and analysis shall be performed according to the following procedure:

- Measure the depth-to-most-shallow groundwater from the top of the well casing to the nearest hundredth of a foot.
- Purge three well volumes of water from the well prior to sample collection.
- Obtain samples from the well for analysis.
- Properly prepare, preserve and transport samples.
- Analyze samples in accordance with the methods authorized in this Discharge Permit.

Depth-to-most-shallow groundwater measurements, analytical results, including the laboratory QA/QC summary report, and a facility layout map showing the location and number of each well shall be submitted to NMED in the **Annual Monitoring Report.**

g) If groundwater monitoring wells are required, the Permittee shall develop a groundwater elevation contour map on an annual basis using the top of casing elevation data from the monitoring well survey and annual depth-to-most-shallow groundwater measurements obtained from the groundwater monitoring wells required by this Discharge Permit.

The groundwater elevation contour map shall depict the groundwater flow direction based on the groundwater elevation contours. Groundwater elevations between monitoring well locations shall be estimated using common interpolation methods. A contour interval appropriate to the data shall be used, but in no case shall the interval be greater than two feet. Groundwater elevation contour maps shall depict the groundwater flow direction, using arrows, based on the orientation of the groundwater elevation contours, and the location and identification of each monitoring well and contaminant source. The groundwater elevation contour map shall be submitted to NMED in the **Annual Monitoring Report.**

Table B6
Groundwater Monitoring Wells

<p>h) If groundwater monitoring wells are required, 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>
Recordkeeping and Reporting
<p>i) An Annual Monitoring Report shall be filed with NMED in accordance with the general reporting schedule listed in Table B1. Each Annual Monitoring 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 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

B103 Facility: Conditions for Closure

- A. For permanent closure, the following closure actions shall be completed upon permanent cessation of wastewater discharge:
1. The Permittee shall continue groundwater monitoring until the requirements of this condition have been met and groundwater monitoring confirms for a minimum of eight (8) consecutive quarterly groundwater sampling events that the standards of Section 20.6.2.3103 NMAC are not exceeded and toxic pollutants are not present in groundwater.

If monitoring results show that a groundwater quality standard in Section 20.6.2.3103 NMAC is exceeded, the total nitrogen concentration in groundwater exceeds 10 mg/L, or a toxic pollutant as defined in Section of 20.6.2.7 NMAC is present in groundwater, the Permittee shall implement the contingency plan required by this Discharge Permit.
 2. Following notification from NMED that post-closure monitoring may cease, the Permittee shall plug and abandon the monitoring well(s) in accordance with the attachment titled *Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions*, Revision 1.1, March 2011.
 3. When all closure and post-closure requirements have been met, the Permittee may request to terminate the Discharge Permit [20.6.2.3109 NMAC, 20.6.2.3107. NMAC].

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** – In the event that groundwater monitoring indicates that a groundwater quality standard identified in Section 20.6.2.3103 NMAC is exceeded; the total nitrogen concentration in groundwater is greater than 10 mg/L; or a toxic pollutant (defined in Subsection WW of 20.6.2.7 NMAC) is present in a groundwater sample and in any subsequent groundwater sample collected from a monitoring well required by this Discharge Permit, the Permittee shall enact the following contingency plan:

Within 60 days of the subsequent sample analysis date, the Permittee shall propose measures to ensure that the exceedance of the standard or the presence of a toxic pollutant will be mitigated by submitting a corrective action plan to NMED for approval. The corrective action plan shall include a description of the proposed actions to control the source and an associated completion schedule. The plan shall be enacted as approved by NMED.

Once invoked (whether during the term of this Discharge Permit; or after the term of this Discharge Permit and prior to the completion of the Discharge Permit closure plan requirements), this condition shall apply until the Permittee has fulfilled the requirements of this condition and groundwater monitoring confirms for a minimum of two years of consecutive groundwater sampling events that the standards of Section 20.6.2.3103 NMAC are not exceeded and toxic pollutants are not present in groundwater.

2. **Ineffective groundwater monitoring well(s)** – In the event that information available to NMED indicates that a well(s) is not constructed in a manner consistent with the attachment titled *Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions, Revision 1.1, March 2011*; contains insufficient water to effectively monitor groundwater quality; or is improperly located the Permittee shall install a replacement well(s) and shall survey the replacement monitoring well(s) within 120 days following notification from NMED.

Replacement well location(s) shall be approved by NMED prior to installation and completed in accordance with the attachment titled *Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions, Revision 1.1, March 2011*. The Permittee shall submit construction and lithologic logs, survey data and a groundwater elevation contour map to NMED within 60 days following well completion.

Upon completion of the replacement monitoring well(s), the monitoring well(s) requiring replacement shall be properly plugged and abandoned. Well plugging, abandonment and documentation of the abandonment procedures shall be completed in accordance with the attachment titled *Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions, Revision 1.1, March 2011*, and all applicable local, state, and

federal regulations. The well abandonment documentation shall be submitted to NMED within 60 days of completion of well plugging activities.

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 the Permittee shall submit a corrective action plan to reduce the discharge volume for NMED approval.
 4. **Exceedance(s) of Nitrogen Loading Limits** - In the event that the SDDS show that the amount of nitrogen in wastewater applied to [any zone within] the surface disposal area in any 12-month period exceeds 200 pounds per acre, the Permittee shall propose the reduction of nitrogen loading to the surface disposal area by submitting a corrective action plan to NMED for approval. The plan shall include a schedule for completion of corrective actions and shall be submitted within 90 days following the end of the monitoring period in which the exceedance occurred. The Permittee shall initiate implementation of the plan following approval by NMED.
 5. **Exceedance(s) of Nitrogen Loading Limits** - In the event that the LADS show that the amount of nitrogen in wastewater and additional fertilizer applied to [any field within] land application area in any 12-month period exceeds by more than 25% the amount reasonably expected to be taken up by the crop(s) and removed by harvesting, the Permittee shall propose the reduction of nitrogen loading to the land application area by submitting a corrective action plan to NMED for approval. The plan shall include a schedule for completion of corrective actions and shall be submitted within 90 days following the end of the monitoring period in which the exceedance occurred. The Permittee shall initiate implementation of the plan following approval by NMED.
 6. **Spills, leaks, unauthorized discharge** – Any spill or release that is not authorized under this Discharge Permit. the Permittee shall comply with the requirements of Sections 20.6.2.1203 NMAC, and shall submit to NMED all information or documentation required by the applicable portions of Sections 20.6.2.1203 NMAC.
- C. The Permittee may be required to abate water pollution pursuant to Sections 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 Section 20.6.2.4103 NMAC within 180 days of confirmation of groundwater contamination.

PART C GENERAL TERMS AND CONDITIONS

C100 Legal

- A. Nothing in this Discharge Permit in any way, relieves the Permittee of the obligation to comply with all applicable federal, state, and local laws, regulations, permits or orders [20.6.2 NMAC].
- B. Pursuant to Section 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 Section 20.6.2.3103 NMAC are being or may

be violated. This may include a determination that structural controls and/or management practices approved under this Discharge Permit are not protective of groundwater quality, and NMED may require more stringent actions to protect groundwater quality. NMED may require the Permittee to implement abatement of water pollution and remediate groundwater quality.

- C. 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 20.6.2 NMAC, 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]
- D. Pursuant to WQA 74-6-10.2(A-F), NMED may 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 Section 31-18-15 NMSA 1978.
- E. 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 Subsection B of 20.6.2.3111 NMAC. Submit to NMED notification of the transfer within 30 days of the ownership transfer date. [20.6.2.3111 NMAC]
- F. 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.

C101 General Inspection and Entry Requirements

- A. Nothing in this Discharge Permit limits in any way, the inspection and entry authority of NMED under the WQA, 20.6.2 NMAC, 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, 20.6.2 NMAC, or any other applicable law or 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, 20.6.2 NMAC, or any other applicable law or 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, 20.6.2 NMAC, or any other applicable law or 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.

C102 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 Section A of 20.6.2.3107 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]

C103 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 Subsections E, F, or G of 20.6.2.3109 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 Acronyms

CL..... chloride
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
LADS.....	land application data sheet(s)
mg/L.....	milligram per liter
mL.....	milliliters
NMAC.....	New Mexico Administrative Code
NMED.....	New Mexico Environment Department
NMP.....	Nutrient Management Plan
NMSA.....	New Mexico Statutes Annotated
NO ₃ -N.....	nitrate as nitrogen
SDDS.....	surface disposal data sheet(s)
TDS.....	total dissolved solids
TKN.....	total Kjeldahl nitrogen
WQA.....	New Mexico Water Quality Act
WQCC.....	Water Quality Control Commission

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