

**AUTHORIZATION TO DISCHARGE WASTEWATER UNDER  
THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM AND  
THE ARKANSAS WATER AND AIR POLLUTION CONTROL ACT**

In accordance with the provisions of the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. 8-4-101 et seq.), and the Clean Water Act (33 U.S.C. § 1251 et seq.),

Covia Solutions Inc.  
Covia Solutions Inc. - Guion Facility

is authorized to discharge process wastewater from industrial sand production from a facility located as follows: 421 Main Street, Guion, AR 72540, in IZARD County, The facility is located north of the White River and east of Highway 58, at the east end of Main Street in Guion.

Facility Coordinates: Latitude: 35° 55' 28.14" N; Longitude: 91° 56' 24.47" W

Discharge is to receiving waters named:

Outfall 001 - Rocky Bayou, thence to the White River in Segment 4F of the White River Basin.

Outfall 010 - unnamed tributary of the White River, thence to the White River in Segment 4F of the White River Basin.

Outfall 011 - backwater slough of the White River, thence to the White River in Segment 4F of the White River Basin.

The outfalls are located at the following coordinates:

Outfall 001: Latitude: 35° 55' 14.0" N; Longitude: 91° 56' 33.8" W

Outfall 010: Latitude: 35° 55' 31.1" N; Longitude: 91° 56' 11.4" W

Outfall 011: Latitude: 35° 55' 32.6" N; Longitude: 91° 56' 38.4" W

Discharge shall be in accordance with effluent limitations, monitoring requirements, and other conditions set forth in this permit. Per Part III.D.10, the permittee must re-apply 180 days prior to the expiration date below for permit coverage to continue beyond the expiration date.

Effective Date: July 1, 2023

Expiration Date: June 30, 2028

06/23/2023

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Alan J. York  
Associate Director, Office of Water Quality  
Arkansas Department of Energy and Environment  
Division of Environmental Quality

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Issue Date

**PART I  
PERMIT REQUIREMENTS**

**SECTION A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS:** OUTFALL 001 - process wastewater from industrial sand production, stormwater runoff, and fresh water pond overflow

During the period beginning on the effective date and lasting until the date of expiration, the permittee is authorized to discharge from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below as well as Parts II and III. See Part IV for all definitions.

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.		
Flow	N/A	N/A	Report, MGD	Report, MGD	once/day	instantaneous
Chemical Oxygen Demand (COD)	N/A	N/A	50	75	once/quarter	grab
Total Suspended Solids (TSS)	N/A	N/A	20.0	30.0	once/week	grab
Oil and Grease (O&G)	N/A	N/A	10	15	once/week	grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/week	grab

Oil, grease, or petrochemical substances shall not be present in receiving waters to the extent that they produce globules or other residue or any visible, colored film on the surface or coat the banks and/or bottoms of the waterbody or adversely affect any of the associated biota. There shall be no visible sheen as defined in Part IV of this permit.

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. Samples shall be taken after the effluent has been discharged from the pond and prior to the receiving stream.

**PART I**  
**PERMIT REQUIREMENTS**

**SECTION A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS:** OUTFALL 010 – mine dewatering from underground mine.

During the period beginning on the effective date and lasting until the date of expiration, the permittee is authorized to discharge from Outfall 010. Such discharges shall be limited and monitored by the permittee as specified below as well as Parts II and III. See Part IV for all definitions.

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.		
Flow	N/A	N/A	Report, MGD	Report, MGD	two/week	instantaneous
Chemical Oxygen Demand (COD)	N/A	N/A	50	75	once/month	grab
Total Suspended Solids (TSS)	N/A	N/A	20.0	30.0	once/month	grab
Oil and Grease (O&G)	N/A	N/A	10	15	once/month	grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab

Oil, grease, or petrochemical substances shall not be present in receiving waters to the extent that they produce globules or other residue or any visible, colored film on the surface or coat the banks and/or bottoms of the waterbody or adversely affect any of the associated biota. There shall be no visible sheen as defined in Part IV of this permit.

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. Samples shall be taken after discharge from the underground mine and prior to entering the receiving stream.

**PART I  
PERMIT REQUIREMENTS**

**SECTION A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS:** OUTFALL 011 - process wastewater from industrial sand production and stormwater runoff.

During the period beginning on the effective date and lasting until the date of expiration, the permittee is authorized to discharge from Outfall 011. Such discharges shall be limited and monitored by the permittee as specified below as well as Parts II and III. See Part IV for all definitions.

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.		
Flow	N/A	N/A	Report, MGD	Report, MGD	once/day	instantaneous
Chemical Oxygen Demand (COD)	N/A	N/A	50	75	once/week	grab
Total Suspended Solids (TSS)	N/A	N/A	20.0	30.0	once/week	grab
Oil and Grease (O&G)	N/A	N/A	10	15	twice/week	grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/week	grab

Oil, grease, or petrochemical substances shall not be present in receiving waters to the extent that they produce globules or other residue or any visible, colored film on the surface or coat the banks and/or bottoms of the waterbody or adversely affect any of the associated biota. There shall be no visible sheen as defined in Part IV of this permit.

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. Samples shall be taken after the water has been discharged from the pond and prior to the receiving stream.

## **SECTION B. PERMIT COMPLIANCE SCHEDULE**

The permittee must conduct the effluent testing required by EPA Form 2C at Outfall 001 at the next discharge from that outfall. The winter effluent temperature and the summer effluent temperature must be taken at the next discharges in the appropriate season.

Winter effluent temperature and summer effluent temperature testing must be conducted at Outfall 010 and 011 within one year from the effective date of the permit.

All test data must be submitted to the Division at the following address:

Enforcement Branch  
Office of Water Quality  
Division of Environmental Quality  
5301 Northshore Drive  
North Little Rock, AR 72118-5317

Information can also be submitted electronically via email at [water-enforcement-report@adeq.state.ar.us](mailto:water-enforcement-report@adeq.state.ar.us).

## PART II OTHER CONDITIONS

1. The operator of this wastewater treatment facility shall hold at least a Basic Industrial license from the State of Arkansas in accordance with APC&EC Rule 3.
2. In accordance with 40 C.F.R. §§ 122.62(a)(2) and 124.5, this permit may be reopened for modification or revocation and/or reissuance to require additional monitoring and/or effluent limitations when new information is received that actual or potential exceedance of State water quality criteria and/or narrative criteria are determined to be the result of the permittee's discharge(s) to a relevant water body or a Total Maximum Daily Load (TMDL) is established or revised for the water body that was not available at the time of the permit issuance that would have justified the application of different permit conditions at the time of permit issuance.
3. Other Specified Monitoring Requirements

The permittee may use alternative appropriate monitoring methods and analytical instruments other than as specified in Part I Section A of the permit without a major permit modification under the following conditions:

- The monitoring and analytical instruments are consistent with accepted scientific practices.
- The requests shall be submitted in writing to the Permits Branch of the Office of Water Quality of the DEQ for use of the alternate method or instrument.
- The method and/or instrument is in compliance with 40 C.F.R. Part 136 or approved in accordance with 40 C.F.R. § 136.5.
- All associated devices are installed, calibrated, and maintained to ensure the accuracy of the measurements and are consistent with the accepted capability of that type of device. The calibration and maintenance shall be performed as part of the permittee's laboratory Quality Assurance/Quality Control (QA/QC) program.

Upon written approval of the alternative monitoring method and/or analytical instruments, these methods or instruments must be consistently utilized throughout the monitoring period. DEQ must be notified in writing and the permittee must receive written approval from DEQ if the permittee decides to return to the original permit monitoring requirements.

4. Best Management Practices (BMPs), as defined in Part IV.7, must be implemented for the facility to prevent or reduce the pollution of waters of the State from stormwater runoff, spills or leaks, and/or waste disposal. The permittee must amend the BMPs whenever there is a change in the facility or a change in the operation of the facility.
5. The permittee must maintain a permeability not exceeding  $1 \times 10^{-7}$  cm/sec for the tailings which are serving as the pond bottom liner for Pond T which is associated with Outfall 011.
6. The permittee must receive written permission from the Division prior to the removal of any solids from Pond T. This condition has been included in the permit so that the Division will

be able to verify that the permeability of the pond bottom will not be compromised due to solids removal.

7. The permittee is restricted to using emulsions and flocculants such that no single product or combination of products will exceed 15 ppm (mg/l). All emulsions and flocculants must be approved by the Division prior to use. The items approved for use at the time of issuance of this permit are as follows:

- EM 533 MPM;
- EM230;
- Polymer 409G;
- TW 20-TW51;
- DA-8269HM;
- Flopam EM635;
- Flomin FL 4620; and
- LC6054.

The approval of additional emulsions and flocculants may take place without a permit modification. Any change to the restriction on the concentration of any one product or combination of products will require a major permit modification.

The permittee must maintain records of all usage of emulsions and flocculants in order to demonstrate compliance with this condition. These records must be kept on site and made available to Division personnel upon request.

#### 8. Monitoring Frequency Reduction

With the exception of flow, the permittee may request a one-time monitoring frequency reduction for pollutants listed in Part I, Section A, *Effluent Limitations and Monitoring Requirements*. Any request for a monitoring frequency reduction must be submitted in writing to DEQ, and signed by the Responsible Official, in accordance with Part III.D.11.A of the permit.

The following requirements must be met before a review of the monitoring frequency reduction request will be performed:

- A. Compliance with the permit limits for at least the last two (2) years for the pollutants for which a request has been made for a monitoring frequency reduction;
- B. No operational or design changes have been made to the facility for at least the last two (2) years (or during period of review, if greater than two (2) years), and are not anticipated for the remaining term of this permit.

If the above conditions are met, a detailed review of the DMR data will be performed for the pollutants for which a monitoring frequency reduction has been requested. Compliance with the limits does not guarantee a monitoring frequency reduction will be granted. Data must

show that the average concentration of the pollutants in the discharge are less than 75% of the permit limits for a monitoring frequency reduction to be granted.

If a monitoring frequency reduction is granted, the frequency can be reduced by no more than half the rate of the corresponding frequency listed in Part I, Section A, *Effluent Limitations and Monitoring Frequencies*. For example, a monitoring frequency of 4 per month will not be reduced to less than 2 per month. Additionally, the frequency will be no less frequent than monthly. Therefore, this condition does not apply to COD at Outfall 001 as the monitoring frequency for that parameter is quarterly or to Outfall 010 as the monitoring frequencies at that outfall are monthly.



## PART III STANDARD CONDITIONS

### SECTION A – GENERAL CONDITIONS

#### 1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the federal Clean Water Act and the Arkansas Water and Air Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; and/or for denial of a permit renewal application. **Any values reported in the required Discharge Monitoring Report (DMR) which are in excess of an effluent limitation specified in Part I shall constitute evidence of violation of such effluent limitation and of this permit.**

#### 2. Penalties for Violations of Permit Conditions

The Arkansas Water and Air Pollution Control Act provides that any person who violates any provisions of a permit issued under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year, or a fine of not more than twenty-five thousand dollars (\$25,000) or by both such fine and imprisonment for each day of such violation. Any person who violates any provision of a permit issued under the Act may also be subject to civil penalty in such amount as the court shall find appropriate, not to exceed ten thousand dollars (\$10,000) for each day of such violation. The fact that any such violation may constitute a misdemeanor shall not be a bar to the maintenance of such civil action.

#### 3. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to the following:

- A. Violation of any terms or conditions of this permit.
- B. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts.
- C. A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- D. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.
- E. Failure of the permittee to comply with the provisions of APC&EC Rule 9 (Permit fees) as required by Part III.A.11 herein.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

#### 4. **Toxic Pollutants**

Notwithstanding Part III.A.3, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under APC&EC Rule 2, as amended, or Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitations on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standards or prohibition and the permittee so notified.

The permittee shall comply with effluent standards, narrative criteria, or prohibitions established under APC&EC Rule 2, as amended, or Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

#### 5. **Civil and Criminal Liability**

Except as provided in permit conditions for “Bypass of Treatment Facilities” (Part III.B.4), and “Upset” (Part III.B.5), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of this permit or applicable state and federal statutes or regulations which defeats the regulatory purposes of the permit may subject the permittee to criminal enforcement pursuant to the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.).

#### 6. **Oil and Hazardous Substance Liability**

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

#### 7. **State Laws**

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

#### 8. **Property Rights**

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

## 9. **Severability**

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

## 10. **Applicable Federal, State or Local Requirements**

Permittees are responsible for compliance with all applicable terms and conditions of this permit. Receipt of this permit does not relieve any operator of the responsibility to comply with any other applicable federal requirements such as endangered species, state or local statute, ordinance or regulation.

## 11. **Permit Fees**

The permittee shall comply with all applicable permit fee requirements (i.e., including annual permit fees following the initial permit fee that will be invoiced every year the permit is active) for wastewater discharge permits as described in APC&EC Rule 9 (Rule for the Fee System for Environmental Permits). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 C.F.R. §§ 122.64 and 124.5(d), as adopted in APC&EC Rule 6 and the provisions of APC&EC Rule 8.

# **SECTION B – OPERATION AND MAINTENANCE OF POLLUTION CONTROLS**

## 1. **Proper Operation and Maintenance**

- A. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- B. The permittee shall provide an adequate operating staff which is duly qualified to carryout operation, maintenance, and testing functions required to ensure compliance with the conditions of this permit.

## 2. **Need to Halt or Reduce not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or discharges or both until the facility is restored or an alternative method of treatment is provided.

This requirement applies, for example, when the primary source of power for the treatment facility is reduced, is lost, or alternate power supply fails.

3. **Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment or the water receiving the discharge.

4. **Bypass of Treatment Facilities**

“Bypass” means the intentional diversion of waste streams from any portion of a treatment facility, as defined at 40 C.F.R. § 122.41(m)(1)(i).

A. Bypass not exceeding limitation

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III.B.4.B and 4.C.

B. Notice

1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III.D.6 (24-hour notice).

C. Prohibition of bypass

1. Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:
  - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - (c) The permittee submitted notices as required by Part III.B.4.B.
2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part III.B.4.C(1).

## 5. Upset Conditions

- A. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Part III.B.5.B of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- B. Conditions necessary for demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
1. An upset occurred and that the permittee can identify the specific cause(s) of the upset.
  2. The permitted facility was at the time being properly operated.
  3. The permittee submitted notice of the upset as required by Part III.D.6.
  4. The permittee complied with any remedial measures required by Part III.B.3.
- C. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

## 6. Removed Substances

- A. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the State. The Permittee must comply with all applicable state and Federal regulations governing the disposal of sludge, including but not limited to 40 C.F.R. Parts 257, 258, and 503.
- B. Any changes to the permittee's disposal practices described in the Statement of Basis, as derived from the permit application, will require at least 180 days prior notice to the Director to allow time for additional permitting. Please note that the 180 day notification requirement may be waived if additional permitting is not required for the change.

## 7. Power Failure

The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators, or retention of inadequately treated effluent.

## SECTION C – MONITORING AND RECORDS

### 1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before

the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Director. Intermittent discharge shall be monitored.

## 2. **Flow Measurement**

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than +/- 10% from true discharge rates throughout the range of expected discharge volumes and shall be installed at the monitoring point of the discharge.

### Calculated Flow Measurement

For calculated flow measurements that are performed in accordance with either the permit requirements or a Division approved method (i.e., as allowed in the *Other Specified Monitoring Requirements* condition under Part II), the +/- 10% accuracy requirement described above is waived. This waiver is only applicable when the method used for calculation of the flow has been reviewed and approved by the Division.

## 3. **Monitoring Procedures**

Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136, unless other test procedures have been specified in this permit. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals frequent enough to ensure accuracy of measurements and shall ensure that both calibration and maintenance activities will be conducted. An adequate analytical quality control program, including the analysis of sufficient standards, spikes, and duplicate samples to ensure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory. At a minimum, spikes and duplicate samples are to be analyzed on 10% of the samples.

## 4. **Penalties for Tampering**

The Arkansas Water and Air Pollution Control Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year or a fine of not more than ten thousand dollars (\$10,000) or by both such fine and imprisonment.

## 5. **Reporting of Monitoring Results**

40 C.F.R. § 127.11(a)(1) and 40 C.F.R. § 127.16(a) require that monitoring reports must be reported on a Discharge Monitoring Reports (DMR) and filed electronically. Signatory

Authorities must initially request access for a NetDMR account. Once a NetDMR account is established, access to electronic filing should use the following link <https://cdx.epa.gov>. Permittees who are unable to file electronically may request a waiver from the Director in accordance with 40 C.F.R. § 127.15. Monitoring results obtained during the previous monitoring period shall be summarized and reported on a DMR dated and submitted no later than the 25<sup>th</sup> day of the month, following the completed reporting period beginning on the effective date of the permit.

6. **Additional Monitoring by the Permittee**

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 C.F.R. Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated on the DMR.

7. **Retention of Records**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

8. **Record Contents**

Records and monitoring information shall include:

- A. The date, exact place, time and methods of sampling or measurements, and preservatives used, if any.
- B. The individual(s) who performed the sampling or measurements.
- C. The date(s) and time analyses were performed.
- D. The individual(s) who performed the analyses.
- E. The analytical techniques or methods used.
- F. The measurements and results of such analyses.

9. **Inspection and Entry**

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- A. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit.
- B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.

- C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit.
- D. Sample, inspect, or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

## **SECTION D – REPORTING REQUIREMENTS**

### **1. Planned Changes**

The Permittee shall give notice to the Director as soon as possible but no later than 180 days prior to any planned physical alterations or additions to the permitted facility [40 C.F.R. § 122.41(l)]. Notice is required only when:

- A. The alteration or addition to a permitted facility may meet one of the criteria for new sources at 40 C.F.R. § 122.29(b).
- B. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to the notification requirements under 40 C.F.R. § 122.42(b).

### **2. Anticipated Noncompliance**

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

### **3. Transfers**

The permit is nontransferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

### **4. Monitoring Reports**

Monitoring results shall be reported at the intervals and in the form specified in Part III.C.5. **Discharge Monitoring Reports must be submitted even when no discharge occurs during the reporting period.**

### **5. Compliance Schedule**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.



## 6. **Twenty-four Hour Report**

Please be aware that the notifications can be sent by email to [water-enforcement-report@adeq.state.ar.us](mailto:water-enforcement-report@adeq.state.ar.us) or at 501-682-0624 for immediate reporting:

- A. The permittee shall report any noncompliance which may endanger health or the environment within 24 hours from the time the permittee becomes aware of the circumstances to the Enforcement Branch of the Office of Water Quality of DEQ. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain the following information:
1. A description of the noncompliance and its cause.
  2. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue.
  3. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- B. The following must be reported within 24 hours:
1. Any unanticipated bypass which exceeds any effluent limitation in the permit.
  2. Any upset which exceeds any effluent limitation in the permit.
  3. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part I of the permit.
- C. The Director may waive the written report on a case-by-case basis if the notification has been received within 24 hours to the Enforcement Branch of the Office of Water Quality of the DEQ.

## 7. **Other Noncompliance**

The permittee shall report all instances of noncompliance not reported under Parts III.D.4, 5, and 6, at the time monitoring reports are submitted. The reports shall contain the information listed at Part III.D.6.

## 8. **Changes in Discharge of Toxic Substances for Industrial Dischargers including Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers**

The Director shall be notified as soon as the permittee knows or has reason to believe:

- A. That any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant including those listed in 40 C.F.R. § 401.15 which is not limited in the permit, if that discharge will exceed the highest of the “notification levels” described in 40 C.F.R. § 122.42(a)(1).
- B. That any activity has occurred or will occur which would result in any discharge on a non-routine or infrequent basis of a toxic pollutant including those listed in 40 C.F.R. § 401.15

which is not limited in the permit, if that discharge will exceed the highest of the “notification levels” described in 40 C.F.R. § 122.42(a)(2).

9. **Duty to Provide Information**

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit. Information shall be submitted in the form, manner and time frame requested by the Director.

10. **Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The complete application shall be submitted at least 180 days before the expiration date of this permit. The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date. Continuation of expiring permits shall be implemented through procedures outlined by APC&EC Rule 6.

11. **Signatory Requirements**

All applications, reports, or information submitted to the Director shall be signed and certified as follows:

A. All **permit applications** shall be signed as follows:

1. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
  - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.
  - (b) The manager of one or more manufacturing, production, or operation facilities, provided: the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. For a partnership or sole proprietorship: by a general partner or proprietor, respectively.

3. For a municipality, State, Federal, or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

(a) The chief executive officer of the agency.

(b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

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

1. The authorization is made in writing by a person described above.

2. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

3. The written authorization is submitted to the Director.

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

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

## 12. **Availability of Reports**

Except for data determined to be confidential under 40 C.F.R. Part 2 and APC&EC Rule 6, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division of Environmental Quality. As required by the Rules, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

## 13. **Penalties for Falsification of Reports**

The Arkansas Air and Water Pollution Control Act provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this permit shall be subject to

civil penalties specified in Part III.A.2 and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.).

14. **Other Information**

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

## PART IV DEFINITIONS

All definitions contained in Section 502 of the Clean Water Act and 40 C.F.R. § 122.2 shall apply to this permit and are incorporated herein by reference. Additional definitions of words or phrases used in this permit are as follows:

1. **“7-Day Average”** also known as “average weekly,” means the highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all “daily discharges” measured during a calendar week divided by the number of “daily discharges” measured during that week. The 7-Day Average for Fecal Coliform Bacteria (FCB) or *E. coli* is the geometric mean of the “daily discharges” of all effluent samples collected during a calendar week in colonies per 100 ml.
2. **“Act”** means the Clean Water Act, Public Law 95-217 (33.U.S.C. 1251 et seq.) as amended.
3. **“Administrator”** means the Administrator of the U.S. Environmental Protection Agency.
4. **“APC&EC”** means the Arkansas Pollution Control and Ecology Commission.
5. **“Applicable effluent standards and limitations”** means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
6. **“Applicable water quality standards”** means all water quality standards to which a discharge is subject under the federal Clean Water Act and which has been (a) approved or permitted to remain in effect by the Administrator following submission to the Administrator pursuant to Section 303(a) of the Act, or (b) promulgated by the Director pursuant to Section 303(b) or 303(c) of the Act, and standards promulgated under (APC&EC) Rule 2, as amended.
7. **“Best Management Practices (BMPs)”** are activities, practices, maintenance procedures, and other management practices designed to prevent or reduce the pollution of waters of the State. BMPs also include treatment technologies, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw sewage. BMPs may include structural devices or nonstructural practices.
8. **“Bypass”** means the intentional diversion of waste streams from any portion of a treatment facility, as defined at 40 C.F.R. § 122.41(m)(1)(i).
9. **“Composite sample”** is a mixture of grab samples collected at the same sampling point at different times, formed either by continuous sampling or by mixing a minimum of 4 effluent portions collected at equal time intervals (but not closer than one hour apart) during operational hours, within the 24-hour period, and combined proportional to flow or a sample collected at more frequent intervals proportional to flow over the 24-hour period.
10. **“CV”** means coefficient of variation.
11. **“Daily Discharge”** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.
  - A. **Mass Calculations:** For pollutants with limitations expressed in terms of mass, the “daily discharge” is calculated as the total mass of pollutant discharged over the sampling day.
  - B. **Concentration Calculations:** For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the day.

12. **“Daily Maximum”** discharge limitation means the highest allowable “daily discharge” during the calendar month.
13. **“Director”** means the Director of the Division of Environmental Quality.
14. **“Dissolved oxygen limit”** shall be defined as follows:
  - A. When limited in the permit as a minimum monthly average, shall mean the lowest acceptable monthly average value, determined by averaging all samples taken during the calendar month.
  - B. When limited in the permit as an instantaneous minimum value, shall mean that no value measured during the reporting period may fall below the stated value.
15. **“E. coli”** a sample consists of one effluent grab portion collected during a 24-hour period at peak loads. For *E. coli*, report the Daily Maximum as the highest “daily discharge” during the calendar month and the Monthly Average as the geometric mean of all “daily discharges” within a calendar month, in colonies per 100 ml.
16. **“Division”** means the Division of Environmental Quality (DEQ).
17. **“Fecal Coliform Bacteria (FCB)”** a sample consists of one effluent grab portion collected during a 24-hour period at peak loads. For FCB, report the Daily Maximum as the highest “daily discharge” during the calendar month and the Monthly Average as the geometric mean of all “daily discharges” within a calendar month, in colonies per 100 ml.
18. **“Grab sample”** means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.
19. **“Industrial User”** means a nondomestic discharger, as identified in 40 C.F.R. Part 403, introducing pollutants to a publicly owned treatment works (POTW).
20. **“Instantaneous flow measurement”** means the flow measured during the minimum time required for the flow-measuring device or method to produce a result in that instance. To the extent practical, instantaneous flow measurements coincide with the collection of any grab samples required for the same sampling period so that together the samples and flow are representative of the discharge during that sampling period.
21. **“Instantaneous Maximum”** when limited in the permit as an instantaneous maximum value, shall mean that no value measured during the reporting period may fall above the stated value.
22. **“Instantaneous Minimum”** an instantaneous minimum value, shall mean that no value measured during the reporting period may fall below the stated value.
23. **“Monitoring and Reporting”**

When a permit becomes effective, monitoring requirements are of the immediate period of the permit effective date. Where the monitoring requirement for an effluent characteristic is monthly or more frequently, the Discharge Monitoring Report (DMR) shall be submitted by the 25<sup>th</sup> of the month following the sampling. Where the monitoring requirement for an effluent characteristic is Quarterly, Semi-Annual, Annual, or Yearly, the DMR shall be submitted by the 25<sup>th</sup> of the month following the monitoring period end date.

  - A. **MONTHLY:**

is defined as a calendar month or any portion of a calendar month for monitoring requirement frequency of once/month or more frequently.
  - B. **BI-MONTHLY:**

is defined as two (2) calendar months or any portion of 2 calendar months for monitoring requirement frequency of once/2 months or more frequently.

**C. QUARTERLY:**

1. is defined as a **fixed calendar quarter** or any part of the fixed calendar quarter for a non-seasonal effluent characteristic with a measurement frequency of once/quarter. Fixed calendar quarters are: January through March, April through June, July through September, and October through December.
2. is defined as a **fixed three month period** (or any part of the fixed three month period) of or dependent upon the seasons specified in the permit for a seasonal effluent characteristic with a monitoring requirement frequency of once/quarter that does not coincide with the fixed calendar quarter. Seasonal calendar quarters are: May through July, August through October, November through January, and February through April.

**D. SEMI-ANNUAL:**

is defined as the fixed time periods January through June, and July through December (or any portion thereof) for an effluent characteristic with a measurement frequency of once/6 months.

**E. ANNUAL or YEARLY:**

is defined as a fixed calendar year or any portion of the fixed calendar year for an effluent characteristic or parameter with a measurement frequency of once/year. A calendar year is January through December, or any portion thereof.

24. **“Monthly Average”** means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month. For Fecal Coliform Bacteria (FCB) or *E. coli*, report the Monthly Average as the geometric mean of all “daily discharges” within a calendar month.
25. **“National Pollutant Discharge Elimination System”** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318, and 405 of the Clean Water Act.
26. **“NOEC”** means No Observed Effect Concentration.
27. **“PMSD”** means Percent Minimum Significant Difference.
28. **“POTW”** means Publicly Owned Treatment Works;
29. **“Reduction of CBOD<sub>5</sub>/BOD<sub>5</sub> and TSS in mg/l Formula”**  
[(Influent – Effluent) / Influent] × 100
30. **“Severe property damage”** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in products.
31. **“Sewage sludge”** means the solids, residues, and precipitate separated from or created in sewage by the unit processes at a POTW. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and stormwater runoff that are discharged to or otherwise enter a POTW.
32. **“Treatment works”** means any devices and systems used in storage, treatment, recycling, and reclamation of municipal sewage and industrial wastes, of a liquid nature to implement section 201 of the Act, or necessary to recycle reuse water at the most economic cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site

acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

**33. Units of Measure:**

“**MGD**” shall mean million gallons per day.

“**mg/l**” shall mean milligrams per liter or parts per million (ppm).

“**µg/l**” shall mean micrograms per liter or parts per billion (ppb).

“**cfs**” shall mean cubic feet per second.

“**ppm**” shall mean parts per million.

“**s.u.**” shall mean standard units.

34. “**Upset**” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. Any upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operations.

35. “**Visible sheen**” means the presence of a film or sheen upon or a discoloration of the surface of the discharge. A sheen can also be from a thin glistening layer of oil on the surface of the discharge.

36. “**Week**” means a calendar week, consisting of the 7-day period of Sunday through Saturday

37. “**Weekday**” means Monday – Friday.



## Final Statement of Basis

This Statement of Basis is for information and justification of the permit requirements only. Please note that it is not enforceable. This permitting decision is for the renewal of discharge Permit Number AR0001899 with Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ) Arkansas Facility Identification Number (AFIN) 33-00002 to discharge to Waters of the State.

### 1. PERMITTING AUTHORITY

The issuing office is:

Division of Environmental Quality  
5301 Northshore Drive  
North Little Rock, Arkansas 72118-5317

### 2. APPLICANT

The applicant's mailing address is:

Covia Solutions Inc. - Guion Facility  
2829 Technology Forest Blvd, Suite 100  
The Woodlands, TX 77381

The facility address is:

Covia Solutions Inc. - Guion Facility  
421 Main Street  
Guion, AR 72540

### 3. PREPARED BY

The permit was prepared by:

Loretta Carstens, P.E.  
Engineer, P.E.  
NPDES Discharge Permits Section  
Office of Water Quality  
(501) 682-0612  
Email: [loretta.carstens@adeq.state.ar.us](mailto:loretta.carstens@adeq.state.ar.us)

Carrie McWilliams, P.E.  
Engineer Supervisor  
NPDES Discharge Permits Section  
Office of Water Quality

### 4. PERMIT ACTIVITY

Previous Permit Effective Date:	September 1, 2016
Previous Permit Modification Dates:	December 21, 2018 and August 1, 2021
Previous Permit Expiration Date:	August 31, 2021

The permittee submitted a permit renewal application on February 25, 2021, with all additional information for administrative completeness received by March 3, 2021. Additional technical information was received August 17, 2022. The discharge permit is reissued for a 5-year term in accordance with regulations promulgated at 40 C.F.R. § 122.46(a).

### DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

APC&EC - Arkansas Pollution Control and Ecology Commission  
BAT - best available technology economically achievable  
BCT - best conventional pollutant control technology  
BMP - best management practice  
BOD<sub>5</sub> - five-day biochemical oxygen demand  
BPJ - best professional judgment  
BPT - best practicable control technology currently available  
CBOD<sub>5</sub> - carbonaceous biochemical oxygen demand  
CD - critical dilution  
C.F.R. - Code of Federal Regulations  
cfs - cubic feet per second  
COD - chemical oxygen demand  
COE - United States Corp of Engineers  
CPP - continuing planning process  
CWA - Clean Water Act  
DMR - discharge monitoring report  
DO - dissolved oxygen  
ELG - effluent limitation guidelines  
EPA - United States Environmental Protection Agency  
ESA - Endangered Species Act  
FCB - fecal coliform bacteria  
gpm - gallons per minute  
MGD - million gallons per day  
MQL - minimum quantification level  
NAICS - North American Industry Classification System  
NH<sub>3</sub>-N - ammonia nitrogen  
NO<sub>3</sub> + NO<sub>2</sub>-N - nitrate + nitrite nitrogen  
NPDES - National Pollutant Discharge Elimination System  
O&G - oil and grease  
Rule 2 - APC&EC Rule 2  
Rule 6 - APC&EC Rule 6  
Rule 8 - APC&EC Rule 8  
Rule 9 - APC&EC Rule 9  
RP - reasonable potential  
SIC - standard industrial classification  
TDS - total dissolved solids  
TMDL - total maximum daily load

TP - total phosphorus  
TRC - total residual chlorine  
TSS - total suspended solids  
UAA - use attainability analysis  
USF&WS - United States Fish and Wildlife Service  
USGS - United States Geological Survey  
WET - whole effluent toxicity  
WQMP - water quality management plan  
WQS - Water Quality standards  
WWTP - wastewater treatment plant

Compliance and Enforcement History:

The compliance and enforcement history for this facility can be reviewed by using the following web link:

[https://www.adeg.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0001899\\_Enforcement%20Review\\_20220404.pdf](https://www.adeg.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0001899_Enforcement%20Review_20220404.pdf)

**5. SIGNIFICANT CHANGES FROM THE PREVIOUSLY ISSUED PERMIT**

The permittee is responsible for carefully reading the permit in detail and becoming familiar with all of the changes therein:

1. Part III.B.6.B was modified to incorporate the removal of the sludge language from Part II of the permit.
2. Part III.C.5 of the permit now requires that DMRs be submitted electronically via NetDMR.
3. The Twenty-four Hour Report condition in Part III.D.6 has been revised.
4. The Changes in Discharge of Toxic Substances for Industrial Dischargers condition in Part III.D.8 has been revised.
5. Decimal places have been added to the TSS concentration limits in accordance with the OWQ's most recent rounding policy.
6. Effluent testing unable to be conducted prior to submittal of the permit application is required in Part IB of the permit. See Item No. 14 of this Statement of Basis for additional information.
7. Monitoring frequency reduction language has been added to Part II of the permit.

**6. RECEIVING STREAM SEGMENT AND DISCHARGE LOCATION**

The outfall is located at the following coordinates based on the previous permit, and confirmed with Google Earth using WGS84:

Outfall 001: Latitude: 35° 55' 14.0" N; Longitude: 91° 56' 33.8" W

Outfall 010: Latitude: 35° 55' 31.1" N; Longitude: 91° 56' 11.4" W

Outfall 011: Latitude: 35° 54' 32.6" N; Longitude: 91° 55' 38.4" W

The receiving waters named:

Outfall 001 - Rocky Bayou, thence to the White River

Outfall 010 - unnamed tributary of the White River, thence to the White River

Outfall 011 - backwater slough of the White River, thence to the White River

The receiving stream in Segment 4F with Assessment Unit AR\_11010004\_004 (closest downstream 3-digit reach code assigned to the White River and applicable to all outfalls) is a Water of the State classified as a trout water, for primary and secondary contact recreation, raw water source for domestic (public and private), industrial, and agricultural water supplies; propagation of desirable species of fish and other aquatic life; and other compatible uses.

**7. 303(d) LIST, TOTAL MAXIMUM DAILY LOADS, ENDANGERED SPECIES, AND ANTI-DEGRADATION CONSIDERATIONS**

**A. 303(d) List**

The receiving streams are not listed on the 2018 303(d) list. Therefore no permit action is needed.

**B. Applicable Total Maximum Daily Load (TMDL) Reports**

There are no applicable TMDLs for the receiving streams.

**C. Endangered Species**

No comments on the application were received from the USF&WS. The draft permit and Statement of Basis were sent to the USF&WS for their review.

**D. Anti-Degradation**

The limitations and requirements set forth in this permit for discharge into waters of the State are consistent with the Anti-degradation Policy and all other applicable water quality standards found in APC&EC Rule 2.

**8. OUTFALL, TREATMENT PROCESS DESCRIPTION, AND FACILITY CONSTRUCTION**

The following is a description of the facility described in the application:

**A. Average Flow:**

The following flows are the highest monthly average flows from the past two years.

Outfall 001 – 0 MGD (7.08 MGD (November 2014) is flow referenced in the fact sheet for the 2016 permit. There wasn't a discharge reported from Outfall 001 during the term of the 2016 permit.)

Outfall 010 – 0.061 MGD (August 2020)

Outfall 011 – See explanation of flow in Item No. 13 of this Statement of Basis.

**B. Type of Treatment:**

Outfalls 001 and 011 – settling ponds and flocculation

Outfall 010 – none

**C. Discharge Description:**

Outfalls 001 and 011 – process wastewater from industrial sand production, stormwater runoff, and fresh water pond overflow (Outfall 001 only, see email dated May 11, 2016 at the following link:

[https://www.adeg.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0001899\\_Requested%20Information%20for%20Outfall%20001\\_20160511.pdf](https://www.adeg.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0001899_Requested%20Information%20for%20Outfall%20001_20160511.pdf)

Outfall 010 – mine dewatering from an underground mine

**D. Facility Status:** This facility was evaluated using the NPDES Permit Rating Worksheet (MRAT) to determine the correct permitting status. Since the facility's MRAT score of 75 is less than 80, this facility is classified as a minor industrial.

**E. Facility Construction:** This permit does not authorize or approve the construction or modification of any part of the treatment system or facilities. Approval for such construction must be by permit issued under Rule 6.202.

## **9. ACTIVITY**

Under the Standard Industrial Classification (SIC) code of 1446 or North American Industry Classification System (NAICS) code of 212322, the applicant's activities are the operation of an industrial sand processing facility.

## **10. SOLIDS PRACTICES**

Solids, i.e., the tailings, are disposed of in the tailings disposal area or hauled to mined-out portions of the underground mine.

## **11. DEVELOPMENT AND BASIS FOR PERMIT CONDITIONS**

The Division of Environmental Quality has determined to issue a permit for the discharge described in the application. Permit requirements are based on federal regulations (40 C.F.R. Parts 122, 124, and Subchapter N), and regulations promulgated pursuant to the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. 8-4-101 et seq.). All of the information contained in the application, including all of the submitted effluent testing data, was reviewed to determine the need for effluent limits and other permit requirements.

The following is an explanation of the derivation of the conditions of the permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons suggesting the decisions as required under 40 C.F.R. § 124.7.

**Technology-Based Versus Water Quality-Based Effluent Limitations and Conditions**

Following regulations promulgated at 40 C.F.R. § 122.44, the permit limits are based on either technology-based effluent limits pursuant to 40 C.F.R. § 122.44(a) or on State water quality standards and requirements pursuant to 40 C.F.R. § 122.44(d), whichever are more stringent as follows:

Parameter	Water Quality-Based		Technology-Based		Previous Permit		Final Permit	
	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l
<b>OUTFALL 001</b>								
COD	N/A	N/A	50	75	50	75	50	75
TSS	N/A	N/A	25.0	45.0	20	30	20.0	30.0
O&G	10	15	N/A	N/A	10	15	10	15
pH	6.0 – 9.0 s.u.		6.0 – 9.0 s.u.		6.0 – 9.0 s.u.		6.0 – 9.0 s.u.	
<b>OUTFALL 010</b>								
COD	N/A	N/A	50	75	50	75	50	75
TSS	N/A	N/A	25.0	45.0	20	30	20.0	30.0
O&G	10	15	N/A	N/A	N/A	N/A	10	15
pH	6.0 – 9.0 s.u.		6.0 – 9.0 s.u.		6.0 – 9.0 s.u.		6.0 – 9.0 s.u.	
<b>OUTFALL 011</b>								
COD	N/A	N/A	50	75	50	75	50	75
TSS	N/A	N/A	25.0	45.0	20	30	20.0	30.0
O&G	10	15	N/A	N/A	10	15	10	15
pH	6.0 – 9.0 s.u.		6.0 – 9.0 s.u.		6.0 – 9.0 s.u.		6.0 – 9.0 s.u.	

**A. Justification for Limitations and Conditions of the Permit**

Parameter	Water Quality or Technology	Justification
<b>OUTFALL 001</b>		
COD	Technology	Previous permit and 40 C.F.R. § 122.44(l)
TSS	Technology	Previous permit and 40 C.F.R. § 122.44(l)
O&G	Water Quality	Rule 2.510, CWA § 402(o), and previous permit
pH	Water Quality	Rule 2.504, CWA §402(o), and previous permit
<b>OUTFALL 010</b>		
COD	Technology	Previous permit and 40 C.F.R. § 122.44(l)
TSS	Technology	Previous permit and 40 C.F.R. § 122.44(l)
O&G	Water Quality	Rule 2.510, CWA § 402(o), and previous permit
pH	Water Quality	Rule 2.504, CWA §402(o), and previous permit
<b>OUTFALL 011</b>		
COD	Technology	Previous permit and 40 C.F.R. § 122.44(l)
TSS	Technology	Previous permit and 40 C.F.R. § 122.44(l)
O&G	Water Quality	Rule 2.510, CWA § 402(o), and previous permit
pH	Water Quality	Rule 2.504, CWA §402(o), and previous permit

No new information was received to warrant adding, removing, or revising any limitations in the permit. Therefore, the limitations in the permit are consistent with the limitations in the previous permit.

The limit on the amount of flocculants that may be used in Part II.7 of the permit is continued from the 2014 permit modification.

**B. Anti-backsliding**

The permit is consistent with the requirements to meet Anti-backsliding provisions of the Clean Water Act (CWA), Section 402(o) [40 C.F.R. § 122.44(l)]. The final effluent limitations for reissuance permits must be as stringent as those in the previous permit, unless the less stringent limitations can be justified using exceptions listed in CWA 402(o)(2), CWA 303(d)(4), or 40 C.F.R. § 122.44(l)(2)(i).

The permit meets or exceeds the requirements of the previous permit.

**C. Limits Calculations**

1. Mass Limits:

Mass limits have not been included in the permit because the effluent flows will be highly variable in volume and/or frequency.

## 2. Daily Maximum Limits:

The daily maximum limits for COD and TSS are based on Section 5.4.2 of the Technical Support Document for Water Quality-Based Toxics Control.

Daily Maximum limits = Monthly average limits X 1.5

The daily maximum limits for O&G are based on the requirements of Rule 2.510.

### D. Applicable Effluent Limitations Guidelines

Discharges from facilities of this type are covered by Federal effluent limitations guidelines promulgated under 40 C.F.R. Part 436, Subpart D - Mineral Mining and Processing Point Source Category, Industrial Sand Subcategory.

In accordance with 40 C.F.R. § 436.42(a)(1), discharges of process waste water pollutants from facilities that recycle waste water for use in the processing shall not exceed 25 mg/l of TSS on a monthly average and 45 mg/l of TSS on a daily maximum. The pH of the discharge is required to be between 6.0 – 9.0 s.u.

In accordance with 40 C.F.R. § 436.42(a)(4), mine dewatering discharges shall not exceed 25 mg/l of TSS on a monthly average and 45 mg/l of TSS on a daily maximum. The pH of the discharge is required to be between 6.0 – 9.0 s.u.

The limits continued from the previous permit are more stringent than or are the same as the limits based on 40 C.F.R. Part 436. The more stringent limits will be placed in the permit.

## 12. STORMWATER REQUIREMENTS

The federal regulations at 40 C.F.R. § 122.26(b)(14) require certain industrial sectors to have NPDES permit coverage for stormwater discharges from the facility. These requirements include the development and implementation of a Stormwater Pollution Prevention Plan (SWPPP) to control the quality of stormwater discharges from the facility. This facility was issued stormwater permit coverage under NPDES Tracking number ARR00B148.

## 13. SAMPLE TYPE AND FREQUENCY

Requirements for sample type and sampling frequency have been based on the previous discharge permit, reported flows from the previous permit cycle, and interoffice guidance memos for recommended monitoring frequencies and monitoring frequency reduction.

### **Outfall 001**

Outfall 001 sample types and monitoring frequencies are remaining unchanged since there was not a discharge from this outfall during the term of the previous permit. The Division will



review any available data at the time of the next permit renewal to determine if changes to the sample types and monitoring frequency are necessary.

### **Outfall 010**

The highest monthly average flow from the past two years at Outfall 010 is 0.061 MGD. The monthly average flows at this outfall have been fairly consistent over the past two years so the sample types and monitoring frequencies at this outfall will be based on the memo requirements for facilities with flows from 0.051 MGD to 0.1 MGD. It is important to note that there have not been any exceedances of permit limits at this outfall during the term of the previous permit.

### **Outfall 011**

Stormwater is permitted to be discharged through this outfall which can cause variability in the flow volumes. The highest monthly average flows from the past two years range from 0.45 MGD to 9.553 MGD. An analysis of the flow data showed that the highest monthly average flow is an outlier.

In order to determine the appropriate monitoring frequency category for this facility, the highest of the long term average (last 2 years) of flow data or the median flow will be used. This is an appropriate measure because the times of low flow due to decreased production and/or dry weather will be balanced by the times of high flow due to increased production and/or heavy rainfall. A long term average flow is a reasonable measure of production as required by 40 C.F.R. Part 122 as it does not favor discharges during heavy rain events or dry weather.

The arithmetic mean flow for the period of November 2020 through October 2022 is 3.6 MGD including the outlier of 9.553 MGD (3.33 MGD average without the outlier). The median flow is 3.153 MGD. Both the median flow and the arithmetic mean flow fall in the monitoring frequency category of 1.01 to 5.0 MGD. This category requires flow monitoring frequency of once per day and a monitoring frequency of three per week for COD, TSS, O&G, and pH.

The performance based monitoring frequency reduction memo may now be applied to this facility at this outfall because there have been no exceedances of permit limits in the past two years. The reported data for COD and TSS as a percentage of their respective permit limits are both below 25%. This will allow for a monitoring frequency of once per week for COD and TSS. The reported data for O&G as a percentage of the permit limit is 69%. This will allow for a monitoring frequency of two per week.

pH frequency reductions cannot be calculated in the same manner as other parameters since it is a permitted range and pH is a logarithmic scale. According to the "OWQ Monitoring Frequency Reduction Guidelines for NPDES Permits" dated April 13, 2022, the reduction of pH monitoring frequency should be made on a case-by-case basis, based on the best engineering judgment of the permit writer, taking into account compliance history for pH, and the reduction in monitoring frequencies of other parameters for the subject facility. The testing frequency for pH will be set at once per week since the facility has complied with the

requirements in the previous permit and the frequencies for COD and TSS have been set at once per week.

### All Outfalls

Sample types have been kept at grab due to the volume of effluent (Outfall 010) or discharge from a pond (Outfalls 001 and 011).

Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
<b>OUTFALL 001</b>				
Flow	once/day	instantaneous	once/day	instantaneous
COD	once/quarter	grab	once/quarter	grab
TSS	once/week	grab	once/week	grab
O&G	once/week	grab	once/week	grab
pH	once/week	grab	once/week	grab
<b>OUTFALL 010</b>				
Flow	once/day	instantaneous	two/week	instantaneous
COD	once/month	grab	once/month	grab
TSS	once/week	grab	once/month	grab
O&G	once/week	grab	once/month	grab
pH	once/week	grab	once/month	grab
<b>OUTFALL 011</b>				
Flow	once/day	instantaneous	once/day	instantaneous
COD	once/quarter	grab	once/week	grab
TSS	once/week	grab	once/week	grab
O&G	once/week	grab	twice/week	grab
pH	once/week	grab	once/week	grab

#### 14. PERMIT COMPLIANCE SCHEDULE

A schedule of compliance for the application testing requirements not completed prior to submittal of the application has been included in Part IB of the permit. Much of the testing could not be completed prior to submittal of the renewal application due to lack of discharge from Outfall 001.

## 15. MONITORING AND REPORTING

The applicant is at all times required to monitor the discharge on a regular basis and report the results monthly. The monitoring results will be available to the public.

## 16. SOURCES

The following sources were used to draft the permit:

- A. Application No. AR0001899 received February 25, 2021, with all additional information received by August 17, 2022.
- B. APC&EC Rule 2.
- C. APC&EC Rule 3.
- D. APC&EC Rule 6, which incorporates by reference certain federal regulations included in Title 40 of the Code of Federal Regulations at Rule 6.104.
- E. 40 C.F.R. Parts 122 and 125.
- F. 40 C.F.R. Part 436.
- G. Discharge permit file AR0001899.
- H. Discharge Monitoring Reports (DMRs).
- I. “2018 Integrated Water Quality Monitoring and Assessment Report,” DEQ.
- J. “2018 List of Impaired Waterbodies (303(d) List),” DEQ, May 2020.
- K. Continuing Planning Process (CPP).
- L. “OWQ Guidelines for Decimal Places and Rounding Conventions in NPDES Permits” documented in a June 12, 2020 Interoffice Memorandum.
- M. “Recommended Monitoring Frequencies and sample types for NPDES Permits” documented in an April 14, 2022 Interoffice Memorandum.
- N. “OWQ Monitoring Frequency Reduction Guidelines for NPDES Permits” documented in an April 13, 2022 Interoffice Memorandum.
- O. Technical Support Document for Water Quality-based Toxic Control.
- P. [Inspection Report](#) dated March 17, 2016.
- Q. [Compliance Review Memo](#) from Christina McCutcheon to Faizan Khan dated April 4, 2022.
- R. [Planning Review Memo](#) dated March 28, 2022.
- S. [NPDES Permit Rating Spreadsheet](#) (MRAT) dated August 19, 2022.

## 17. PUBLIC NOTICE

The public notice of the draft permit was published for public comment on April 9, 2023. The last day of the comment period was thirty (30) days after the publication date. No public comments were received on the draft permit.

Copies of the draft permit and public notice were sent via email to the Corps of Engineers, the Regional Director of the U.S. Fish and Wildlife Service, the Department of Parks, Heritage, and Tourism, the EPA, and the Arkansas Department of Health.

## 18. PERMIT FEE

In accordance with Rule 9.403(D), the annual fee for the permit is calculated using the permitted flow in MGD. For the purposes of this permit evaluation, the permitted flow will be considered the highest monthly flow from the previous 2 years for Outfall 011 (see Part 8(A) of this Statement of Basis). The fee is calculated as follows:

$$\text{Fee} = \$200 + (5,600 \times Q) = \$200 + (5,600 \times 3.6) = \$20,360, \text{ Maximum fee is } \$10,000.$$

This facility is billed under Fee Code U which corresponds to 9.403(D), "Non-Municipal Minor Facilities". Previously, the permit fee was calculated using a permitted flow of 1.0 MGD.

## 19. POINT OF CONTACT

For additional information, contact:

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