Permit Number: AR0037800
AFIN: 70-00098

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.),

Clean Harbors El Dorado, LLC

is authorized to discharge stormwater runoff from the northwest and the northeast corners of the property, stormwater runoff from process areas, air compressor condensate, steam condensate, nitrogen condensate, boiler/cooling water blowdown, and non-contact cooling water, from a facility located as follows: 309 American Circle, El Dorado, AR 71730, in Union County. From Little Rock, take US-167S to US 63N in El Dorado; travel 0.3 miles to American Road; travel 0.5 miles south on American Road to facility.

Facility Coordinates: Latitude: 33° 12’ 08.16” N; Longitude: 92° 37’ 36.17” W

Discharges are to receiving waters named:

Outfall 001: unnamed tributary of Boggy Creek, thence to Boggy Creek, thence to Bayou de Loutre in Segment 2D of the Ouachita River Basin.
Outfall 007: Boggy Creek, thence to Bayou de Loutre in Segment 2D of the Ouachita River Basin.
Outfall 010: man-made ditch, thence to Boggy Creek, thence to Bayou de Loutre in Segment 2D of the Ouachita River Basin.

The outfalls are located at the following coordinates:

Outfall 001: Latitude: 33° 12’ 25.1” N; Longitude: 92° 38’ 01.8” W
Outfall 007: Latitude: 33° 12’ 13.2” N; Longitude: 92° 37’ 34.9” W
Outfall 010: Latitude: 33° 12’ 06.6” N; Longitude: 92° 37’ 34.9” 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: August 1, 2023
Expiration Date: July 31, 2028

Digitally signed by Alan J. York
DN: cn=Alan J. York, o, ou, email=alan.york@adeq.state.ar.us, c=US
Date: 2023.07.26 11:01:09 -05'00'

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

07/26/2023
Issue Date

PART I
PERMIT REQUIREMENTS

SECTION A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 001 - stormwater from northwest corner of property

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.

Effluent Characteristics	**Discharge Limitations**				**Monitoring Requirements**	
	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	totalizing meter
Total Suspended Solids (TSS)	N/A	N/A	Report	Report	once/month	grab
Total Organic Carbon (TOC)	N/A	N/A	N/A	55	once/month	grab
Total Rec. Arsenic[3]	N/A	N/A	Report µg/l	Report µg/l	once/quarter[4]	grab
Total Rec. Lead[3]	N/A	N/A	Report µg/l	Report µg/l	once/quarter	grab
Total Rec. Mercury[3]	N/A	N/A	Report µg/l	Report µg/l	once/quarter	grab
Total Rec. Silver[3]	N/A	N/A	Report µg/l	Report µg/l	once/quarter	grab
Total Rec. Thallium[3]	N/A	N/A	Report µg/l	Report µg/l	once/quarter[4]	grab
Total Rec. Zinc[3]	N/A	N/A	Report µg/l	Report µg/l	once/quarter	grab
pH	N/A	N/A	Minimum 6.0 s.u.	Maximum 9.0 s.u.	once/month	grab
Chronic WET Testing[1]						
***Pimephales promelas* (Chronic)[1]**	N/A		7-Day Minimum			
Pass/Fail Lethality (7-day NOEC) TLP6C			Report (Pass=0/Fail=1)		once/quarter	composite
Pass/Fail Growth (7-day NOEC) TGP6C			Report (Pass=0/Fail=1)		once/quarter	composite
Survival (7-day NOEC) TOP6C			Report %		once/quarter	composite
Coefficient of Variation (Growth) TQP6C			Report %		once/quarter	composite
Growth (7-day NOEC) TPP6C			Report %		once/quarter	composite
Pass/Fail Retest 1 (7-day NOEC) 22418			Report (Pass=0/Fail=1)		once/month[2]	composite
Pass/Fail Retest 2 (7-day NOEC) 22419			Report (Pass=0/Fail=1)		once/month[2]	composite
Pass/Fail Retest 3 (7-day NOEC) 51444			Report (Pass=0/Fail=1)		once/month[2]	composite
***Ceriodaphnia dubia* (Chronic)[1]**			7-Day Minimum			
Pass/Fail Lethality (7-day NOEC) TLP3B			Report (Pass=0/Fail=1)		once/quarter	composite
Pass/Fail Reproduction (7-day NOEC) TGP3B			Report (Pass=0/Fail=1)		once/quarter	composite
Survival (7-day NOEC) TOP3B			Report %		once/quarter	composite
Coefficient of Variation (Reproduction) TQP3B			Report %		once/quarter	composite
Reproduction (7-day NOEC) TPP3B			Report %		once/quarter	composite
Pass/Fail Retest 1 (7-day NOEC) 22415			Report (Pass=0/Fail=1)		once/month[2]	composite
Pass/Fail Retest 2 (7-day NOEC) 22416			Report (Pass=0/Fail=1)		once/month[2]	composite
Pass/Fail Retest 3 (7-day NOEC) 51443			Report (Pass=0/Fail=1)		once/month[2]	composite

1. See Part II.8 (WET Testing Requirements).
2. CONDITIONAL REPORTING: Use only if conducting retests due to a test failure (demonstration of significant toxic effects at or below the critical dilution). If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one routine toxicity test. If

retests are not required, Report NODI=9 (Conditional Monitoring - Not Required This Period) under retest parameters (reported on a quarterly DMR). This condition applies to *P. promelas* and *C. dubia*.

3. See Part II.6 (Metals Requirements).
4. Monitoring and reporting for Total Recoverable Arsenic and Total Recoverable Thallium is only required for the first four quarters of the permit.

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 final treatment unit, prior to the receiving stream.

PART I
PERMIT REQUIREMENTS

SECTION A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 007 - stormwater from northeast corner of property and process areas, air compressor condensate, steam condensate, nitrogen condensate, boiler/cooling water blowdown, and non-contact cooling water

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.

Effluent Characteristics	**Discharge Limitations**				**Monitoring Requirements**	
	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	totalizing meter
Upstream Flow	N/A	N/A	Report MGD	Report MGD	once/day	weir/calculated
Flow as % of Upstream Flow	N/A	N/A	N/A	7%	once/week	calculated
Total Suspended Solids (TSS)	N/A	N/A	Report	Report	once/month	grab
Total Organic Carbon (TOC)	N/A	N/A	N/A	55	once/week	grab
Oil and Grease (O & G)	N/A	N/A	10	15	once/week	grab
Chlorides	N/A	N/A	Report	Report	once/month	grab
Sulfates	N/A	N/A	Report	Report	once/month	grab
TDS	N/A	N/A	Report	Report	once/month	grab
1,2-Dichloroethane	N/A	N/A	Report µg/l	Report µg/l	once/month	grab
Dichloromethane	N/A	N/A	Report µg/l	Report µg/l	once/month	grab
Total Rec. Lead[3]	N/A	N/A	40.33 µg/l	80.91 µg/l	once/month	grab
Total Rec. Mercury[3]	N/A	N/A	0.14 µg/l	0.29 µg/l	once/month	grab
Total Rec. Zinc[3]	N/A	N/A	Report µg/l	Report µg/l	once/month	grab
Total Rec. Arsenic[3]	N/A	N/A	Report µg/l	Report µg/l	once/quarter[4]	grab
pH	N/A	N/A	Minimum 6.0 s.u.	Maximum 9.0 s.u.	once/month	grab

Effluent Characteristics	Discharge Limitations				Monitoring Requirements	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.		
Chronic WET Testing[1]						
***Pimephales promelas* (Chronic)[1]**			7-Day Minimum			
Pass/Fail Lethality (7-day NOEC) TLP6C			Report (Pass=0/Fail=1)		once/quarter	composite
Pass/Fail Growth (7-day NOEC) TGP6C			Report (Pass=0/Fail=1)		once/quarter	composite
Survival (7-day NOEC) TOP6C			Report %		once/quarter	composite
Coefficient of Variation (Growth) TQP6C			Report %		once/quarter	composite
Growth (7-day NOEC) TPP6C			Report %		once/quarter	composite
Pass/Fail Retest 1 (7-day NOEC) 22418			Report (Pass=0/Fail=1)		once/month[2]	composite
Pass/Fail Retest 2 (7-day NOEC) 22419			Report (Pass=0/Fail=1)		once/month[2]	composite
Pass/Fail Retest 3 (7-day NOEC) 51444			Report (Pass=0/Fail=1)		once/month[2]	composite
***Ceriodaphnia dubia* (Chronic)[1]**	N/A		7-Day Minimum			
Pass/Fail Lethality (7-day NOEC) TLP3B			Report (Pass=0/Fail=1)		once/quarter	composite
Pass/Fail Reproduction (7-day NOEC) TGP3B			Report (Pass=0/Fail=1)		once/quarter	composite
Survival (7-day NOEC) TOP3B			Report %		once/quarter	composite
Coefficient of Variation (Reproduction) TQP3B			Report %		once/quarter	composite
Reproduction (7-day NOEC) TPP3B			Report %		once/quarter	composite
Pass/Fail Retest 1 (7-day NOEC) 22415			Report (Pass=0/Fail=1)		once/month[2]	composite
Pass/Fail Retest 2 (7-day NOEC) 22416			Report (Pass=0/Fail=1)		once/month[2]	composite
Pass/Fail Retest 3 (7-day NOEC) 51443			Report (Pass=0/Fail=1)		once/month[2]	composite

1. See Part II.8 (WET Testing Requirements).
2. CONDITIONAL REPORTING: Use only if conducting retests due to a test failure (demonstration of significant toxic effects at or below the critical dilution). If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one routine toxicity test. If retests are not required, Report NODI=9 (Conditional Monitoring - Not Required This Period) under retest parameters (reported on a quarterly DMR). This condition applies to *P. promelas* and *C. dubia*.
3. See Part II.6 (Metals Requirements).
4. Monitoring and reporting for Total Recoverable Arsenic is only required for the first four quarters of the permit.

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 final treatment unit and prior to the receiving stream.

PART I
PERMIT REQUIREMENTS

SECTION A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 010 - stormwater, air compressor condensate, steam condensate, nitrogen condensate, boiler/cooling water blowdown, and non-contact cooling water

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.

Effluent Characteristics	**Discharge Limitations**				**Monitoring Requirements**	
	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
Total Suspended Solids (TSS)	N/A	N/A	Report	Report	once/month	grab
Total Organic Carbon (TOC)	N/A	N/A	N/A	55	once/week	grab
Oil and Grease (O & G)	N/A	N/A	10	15	once/week	grab
Chlorides	N/A	N/A	631	631	once/week	grab
Sulfates	N/A	N/A	63	63	once/quarter	grab
Total Dissolved Solids (TDS)	N/A	N/A	1360	1360	once/week	grab
Temperature	N/A	N/A	86°F, Inst. Max.		twice/week	grab
1,2-Dichloroethane	N/A	N/A	Report µg/l	Report µg/l	once/quarter	composite
Dichloromethane	N/A	N/A	Report µg/l	Report µg/l	once/quarter	composite
Total Rec. Arsenic[3]	N/A	N/A	Report µg/l	Report µg/l	once/quarter[5]	composite
Total Rec. Cadmium[3]	N/A	N/A	2.03 µg/l	4.08 µg/l	once/quarter	composite
Total Rec. Mercury[3, 4]						
INTERIM[4]	N/A	N/A	Report µg/l	Report µg/l	once/quarter	composite
FINAL[4]	N/A	N/A	0.0134 µg/l	0.0269 µg/l	once/quarter	composite
Total Rec. Lead[3]	N/A	N/A	3.80 µg/l	7.61 µg/l	once/quarter	composite
Total Rec. Selenium[3]	N/A	N/A	17.41 µg/l	34.93 µg/l	once/quarter	composite
Total Rec. Zinc[3]	N/A	N/A	Report µg/l	Report µg/l	once/quarter	composite
pH	N/A	N/A	Minimum 6.0 s.u.	Maximum 9.0 s.u.	once/month	grab
Chronic WET Limits[1, 2] ***Pimephales promelas* 51714** ***Ceriodaphnia dubia* 51710**			Value Lethality – Not <100% Sub-lethality – Not < 80%		once/quarter	composite

Effluent Characteristics	Discharge Limitations				Monitoring Requirements	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.		
***Pimephales promelas* (Chronic)[1, 2]**			7-Day Minimum			
Pass/Fail Lethality (7-day NOEC) TLP6C			Report (Pass=0/Fail=1)		once/quarter	composite
Pass/Fail Growth (7-day NOEC) TGP6C			Report (Pass=0/Fail=1)		once/quarter	composite
Survival (7-day NOEC) TOP6C			Report %		once/quarter	composite
Coefficient of Variation (Growth) TQP6C			Report %		once/quarter	composite
Growth (7-day NOEC) TPP6C			Report %		once/quarter	composite
***Ceriodaphnia dubia* (Chronic)[1, 2]**	N/A		7-Day Minimum			
Pass/Fail Lethality (7-day NOEC) TLP3B			Report (Pass=0/Fail=1)		once/quarter	composite
Pass/Fail Reproduction (7-day NOEC) TGP3B			Report (Pass=0/Fail=1)		once/quarter	composite
Survival (7-day NOEC) TOP3B			Report %		once/quarter	composite
Coefficient of Variation (Reproduction) TQP3B			Report %		once/quarter	composite
Reproduction (7-day NOEC) TPP3B			Report %		once/quarter	composite

1. See Part II.9 (WET Limit Requirements).
2. As per Part II.9 (WET Limit Condition), the permittee shall submit the results of the valid monthly increased frequency toxicity tests on the Unscheduled DMRs (51714, TLP6C, TGP6C, TOP6C, TQP6C, TPP6C, 51710 TLP3B, TOP3B, TPP3B, TGP3B, TQP3B). This condition applies to *P. promelas* and *C. dubia*.
3. See Part II.6 (Metals Requirements).
4. Compliance with the final limits for Total Recoverable Mercury at Outfall 010 is required three years from the effective date of the permit. In the interim, the permittee must monitor and report the levels of Total Recoverable Mercury in the effluent from this outfall.
5. Monitoring and reporting for Total Recoverable Arsenic is only required for the first four quarters of the permit.

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 final treatment unit, prior to the receiving stream.

SECTION B. PERMIT COMPLIANCE SCHEDULE

Compliance with the Final Effluent Limitations for Total Recoverable Mercury at Outfall 010 is required three years after the effective date of the permit. The permittee shall submit progress reports addressing the progress towards attaining the Final Effluent Limitations for the aforementioned parameters according to the following schedule:

ACTIVITY	**DUE DATE**
Progress Report[1, 2]	One (1) year from effective date
Progress Report[1, 3]	Two (2) years from effective date
Achieve Final Compliance[1, 4]	Three (3) years from effective date

All progress reports 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.

[1] If the permittee is already in compliance with a final permit limit, only documentation demonstrating compliance with the final limit will be required for the progress report.

[2] If the permittee is not in compliance with the Final Limitations following one (1) year of sampling, the initial Progress Report must detail how the permittee plans to come into compliance with the final limits within the remaining 2 years of the interim period. Options must be provided that were considered along with which option* was selected. Any Best Management Practices (BMPs) that have been instituted to reduce the concentration in the influent must also be discussed. If a study will be performed, a milestone schedule for the study must be provided.

* The permittee has the option to undertake any study deemed necessary to meet the final limitations during the interim period. Any additional treatment (including chemical addition) must be approved and construction approval granted prior to final installation.

[3] The second Progress Report must contain an update on the status of the chosen option from the initial Progress Report. If the facility is not meeting any of the milestones provided in the initial Progress Report, the facility must update the milestone schedule to show how the final limits will be met by the deadline.

[4] A final Progress Report must be submitted no later than 30 days following the final compliance date and include a certification that the final effluent limits were met on the effective date and that the limits are still being met.

PART II
OTHER CONDITIONS

1. The operator of this wastewater treatment facility shall hold an Advanced 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. Monitoring Frequency Reduction

   With the exception of whole effluent toxicity testing (WET) requirements, 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.

6. The permittee may use any EPA approved method based on 40 C.F.R. Part 136 provided the minimum quantification level (MQL) for the chosen method is equal to or less than what has been specified in chart below:

Pollutant	MQL (µg/l)
Total Recoverable Arsenic	0.5
Total Recoverable Cadmium	1
Total Recoverable Lead	0.5
Total Recoverable Mercury	0.005
Total Recoverable Selenium	5
Total Recoverable Silver	0.5
Total Recoverable Thallium	0.5
Total Recoverable Zinc	20
1,2 Dichloroethane	10
Dichloromethane	20

The permittee may develop a matrix specific method detection limit (MDL) in accordance with Appendix B of 40 C.F.R. Part 136. For any pollutant for which the permittee determines a site specific MDL, the permittee shall send to DEQ, NPDES Permits Branch, a report containing QA/QC documentation, analytical results, and calculations necessary to demonstrate that a site specific MDL was correctly calculated. A site specific MQL shall be determined in accordance with the following calculation:

$MQL = 3.3 \times MDL$

Upon written approval by Permits Branch, the site specific MQL may be utilized by the permittee for all future Discharge Monitoring Report (DMR) calculations and reporting requirements.

7. HCR Conditions Applicable at Outfall 007

   a. The permittee must monitor the upstream flow. Receiving stream flow shall be measured immediately upstream from the discharge location.
   b. The permittee shall maintain the approved instream flow monitoring equipment and the associated solenoids, valves, etc.; and have the equipment serviced and calibrated on a regular basis. Records shall be kept and available for inspection upon request.
   c. Discharge flow from Outfall 007 is restricted as follows: the daily discharge flow must be less than or equal to the critical percentage (7%) of the daily stream flow. The permittee shall report the number of days per month that the facility average discharge exceeds the critical percentage of 7%.

8. WHOLE EFFLUENT TOXICITY TESTING (7-DAY CHRONIC NOEC FRESHWATER)

   A. SCOPE AND METHODOLOGY

      i. The permittee shall test the effluent for toxicity in accordance with the provisions in this section.

APPLICABLE TO FINAL OUTFALLS:	001 and 007
REPORTED ON DMR AS FINAL OUTFALLS:	001 and 007
CRITICAL DILUTION (%):	Outfall 001 – 100% Outfall 007 – 9.5%
EFFLUENT DILUTION SERIES (%):	Outfall 001 – 32%, 42%, 56%, 75%, and 100% Outfall 007 – 4.0%, 5.3%, 7.1%, 9.5%, and 12.1%
TESTING FREQUENCY:	once/quarter
COMPOSITE SAMPLE TYPE:	Defined in Paragraph C.iv.a

TEST SPECIES/METHODS: 40 C.F.R. Part 136

Ceriodaphnia dubia chronic static renewal survival and reproduction test, Method 1002.0, EPA-821-R-02-013, or the most recent update thereof. This test should be terminated when 60% of the surviving females in the control produce three broods or at the end of eight days, whichever comes first.

Pimephales promelas (Fathead minnow) chronic static renewal 7-day larval survival and growth test, Method 1000.0, EPA-821-R-02-013, or the most recent update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

ii. The NOEC (No Observed Effect Concentration) is herein defined as the greatest effluent dilution at and below which toxicity (lethal or sub-lethal) that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. Chronic lethal test failure is defined as a demonstration of a statistically significant lethal effect at test completion to a test species at or below the critical dilution. Chronic sub-lethal test failure is defined as a demonstration of a statistically significant sub-lethal effect (i.e., growth or reproduction) at test completion to a test species at or below the critical dilution.

iii. This permit may be reopened to require whole effluent toxicity limits, chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.

B. PERSISTENT LETHAL and/or SUB-LETHAL EFFECTS

The requirements of this subsection apply only when a toxicity test demonstrates significant lethal and/or sub-lethal effects at or below the critical dilution. The purpose of retests is to determine the duration of a toxic event. A test that meets all test acceptability criteria and demonstrates significant toxic effects does not need additional confirmation. Such testing cannot confirm or disprove a previous test result.

If a frequency reduction, as specified in Item F, has been granted and any valid test demonstrates significant lethal or sub-lethal effects to a test species at or below the critical dilution, the frequency of testing for that species is automatically increased to once per quarter for the life of the permit. In addition:

i. Part I Testing Frequency Other Than Monthly

a. The permittee shall conduct a total of three (3) retests for any species that demonstrates significant toxic effects at or below the critical dilution. The retests shall be conducted monthly during the next three consecutive months. If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one scheduled toxicity test. A full report shall be prepared for each test required by this section in accordance with procedures outlined in Item D of this section and submitted with the period discharge monitoring report (DMR) to the permitting authority for review.

b. IF LETHAL EFFECTS HAVE BEEN DEMONSTRATED If any of the retests demonstrates significant lethal effects at or below the critical dilution, the permittee shall initiate Toxicity Reduction Evaluation (TRE) requirements as specified in Item E of this section. The permittee shall notify DEQ in writing within 5 days of the failure of any retest, and the TRE initiation date will be the test completion date of the first failed retest. A TRE may also be required due to a demonstration of intermittent lethal effects at or below the critical dilution, or for failure to perform the required retests. A TRE required based on lethal effects should consider any sub-lethal effects as well.

c. IF SUB-LETHAL EFFECTS ONLY HAVE BEEN DEMONSTRATED If any two of the three retests demonstrates significant sub-lethal effects at or below the critical dilution, the permittee shall initiate the Sub-Lethal Toxicity Reduction Evaluation (TRE_{SL}) requirements as specified in Item E of this section. The permittee shall notify DEQ in writing within 5 days of the failure of any retest, and the Sub-Lethal Effects TRE initiation date will be the test completion date of the first failed retest. A TRE may also be required for failure to perform the required retests.

d. The provisions of Item B.i.a are suspended upon submittal of the TRE Action Plan.

C. REQUIRED TOXICITY TESTING CONDITIONS

i. Test Acceptance

The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied, including the following additional criteria:

a. The toxicity test control (0% effluent) must have survival equal to or greater than 80%.

b. The mean number of *Ceriodaphnia dubia* neonates produced per surviving female in the control (0% effluent) must be 15 or more.

c. 60% of the surviving control females must produce three broods.

d. The mean dry weight of surviving Fathead minnow larvae at the end of the 7 days in the control (0% effluent) must be 0.25 mg per larva or greater.

e. The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for: the young of surviving females in the *Ceriodaphnia dubia* reproduction test; the growth and survival endpoints of the Fathead minnow test.

f. The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal or sub-lethal effects are exhibited for: the young of surviving females in the *Ceriodaphnia dubia* reproduction test; the growth and survival endpoints of the Fathead minnow test.

g. If a test passes, yet the percent coefficient of variation between replicates is greater than 40% in the control (0% effluent) and/or in the critical dilution for: the young of surviving females in the *Ceriodaphnia dubia* reproduction test; the growth and survival endpoints of the Fathead minnow test, the test is determined to be invalid. A repeat test shall be conducted within the required reporting period of any test determined to be invalid.

h. If a test fails, test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%.

i. A Percent Minimum Significant Difference (PMSD) range of 13 - 47 for *Ceriodaphnia dubia* reproduction;

j. A PMSD range of 12 - 30 for Fathead minnow growth.

ii. Statistical Interpretation

a. For the *Ceriodaphnia dubia* survival test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be Fisher's Exact Test as described in EPA/821/R-02-013 or the most recent update thereof.

b. For the *Ceriodaphnia dubia* reproduction test and the Fathead minnow larval survival and growth test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in EPA/821/R-02-013 or the most recent update thereof.

c. If the conditions of Test Acceptability are met in Item C.i above and the percent survival of the test organism is equal to or greater than 80% in the critical dilution concentration and all lower dilution concentrations, the test shall be considered to be a passing test, and the permittee shall report a survival NOEC of not less than the critical dilution for the DMR reporting requirements found in Item D below.

iii. Dilution Water

a. Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and alkalinity to the closest downstream perennial water for;

(1) toxicity tests conducted on effluent discharges to receiving water classified as intermittent streams; and

(2) toxicity tests conducted on effluent discharges where no receiving water is available due to zero flow conditions.

b. If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria of Item C.i), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:

(1) a synthetic dilution water control which fulfills the test acceptance requirements of Item C.i was run concurrently with the receiving water control;

(2) the test indicating receiving water toxicity has been carried out to completion (i.e., 7 days);

(3) the permittee includes all test results indicating receiving water toxicity with the full report and information required by Item D below; and

(4) the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.

iv. Samples and Composites

a. The permittee shall collect a minimum of three flow-weighted composite samples from the outfall(s) listed at Item A.i above. Unless otherwise stated in this section, a composite sample for WET shall consist of a minimum of 12 subsamples gathered at equal time intervals during a 24-hour period.

b. The permittee shall collect second and third composite samples for use during 24-hour renewals of each dilution concentration for each test. The permittee must collect the composite samples such that the effluent samples, on use, are representative of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on a regular or intermittent basis.

c. The permittee must collect all three flow-weighted composite samples within the monitoring period. Second and/or third composite samples shall not be collected into the next monitoring period; such tests will be determined to not meet either reporting period requirements. Monitoring period definitions are listed in Part IV.

d. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 72 hours. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite sample. Samples shall be chilled to between 0 and 6 degrees Centigrade during collection, shipping, and/or storage.

e. If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions and the sample holding time are waived during that sampling period. However, the permittee must have collected an

effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item D of this section.

f. MULTIPLE OUTFALLS: If the provisions of this section are applicable to multiple outfalls, the permittee shall combine the composite effluent samples in proportion to the average flow from the outfalls listed in Item A.i. above for the day the sample was collected. The permittee shall perform the toxicity test on the flow-weighted composite of the outfall samples.

g. If chlorination is part of the treatment process, the permittee shall not allow the sample to be dechlorinated at the laboratory. At the time of sample collection the permittee shall measure the TRC of the effluent. The measured concentration of TRC for each sample shall be included in the lab report submitted by the permittee.

D. REPORTING

i. The permittee shall prepare a full report of the results of all tests conducted pursuant to this section in accordance with the Report Preparation Section of EPA/821/R-02-013, or the most current publication, for every valid or invalid toxicity test initiated whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of PART III.C.7 of this permit. The permittee shall submit full reports. For any test or retest which fails, is considered invalid, or which is terminated early for any reason, the full report must be submitted for agency review.

ii. A valid test for each species must be reported on the DMR during each reporting period specified in PART I of this permit. The full reports for all valid tests, invalid tests, repeat tests (for invalid tests), and retests (for tests previously failed) performed during the reporting period must be attached to the DMR for Agency review.

iii. The permittee shall submit the results of each valid toxicity test and retest on the subsequent DMR for that reporting period in accordance with PART III.D.4 of this permit, as follows below. Only results of valid tests are to be reported on the DMR.

a. *Pimephales promelas* (Fathead minnow)

(1) If the No Observed Effect Concentration (NOEC) for survival is less than the critical dilution, enter a “1”; otherwise, enter a “0” for Parameter No. TLP6C

(2) Report the NOEC value for survival, Parameter No. TOP6C

(3) Report the NOEC value for growth, Parameter No. TPP6C

(4) If the NOEC for growth is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TGP6C

(5) Report the highest (critical dilution or control) Coefficient of Variation for growth, Parameter No. TQP6C

(6) If conducting retests due to a test failure (demonstration of significant toxic effects at or below the critical dilution):

(A) Consecutive Monthly Retest 1: If the NOEC (lowest lethal or sub-lethal) for *P. promelas* is less than the critical dilution, enter a "1"; otherwise, enter a "0" under Parameter No. 22418 (reported on quarterly DMR);

(B) Consecutive Monthly Retest 2: If the NOEC (lowest lethal or sub-lethal) for *P. promelas* is less than the critical dilution, enter a "1"; otherwise, enter a "0" under Parameter No. 22419 (reported on quarterly DMR);

(C) Consecutive Monthly Retest 3: If the NOEC (lowest lethal or sub-lethal) for *P. promelas* is less than the critical dilution, enter a "1"; otherwise, enter a "0" under Parameter No. 51444 (reported on quarterly DMR);

(D) If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one scheduled toxicity test;

(E) If retests are not required, Report NODI=9 (Conditional Monitoring - Not Required This Period) under Parameter Nos. 22418, 22419, 51444 (reported on quarterly DMR)

b. *Ceriodaphnia dubia*

(1) If the NOEC for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TLP3B

(2) Report the NOEC value for survival, Parameter No. TOP3B

(3) Report the NOEC value for reproduction, Parameter No. TPP3B

(4) If the NOEC for reproduction is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TGP3B

(5) Report the higher (critical dilution or control) Coefficient of Variation for reproduction, Parameter No. TQP3B

(6) If conducting retests due to a test failure (demonstration of significant toxic effects at or below the critical dilution):

(A) Consecutive Monthly Retest 1: If the NOEC (lowest lethal or sub-lethal) for *C. dubia* is less than the critical dilution, enter a "1"; otherwise, enter a

"0" under Parameter No. 22415 (reported on quarterly DMR);

(B) Consecutive Monthly Retest 2: If the NOEC (lowest lethal or sub-lethal) for *C. dubia* is less than the critical dilution, enter a "1"; otherwise, enter a "0" under Parameter No. 22416 (reported on quarterly DMR);

(C) Consecutive Monthly Retest 3: If the NOEC (lowest lethal or sub-lethal) for *C. dubia* is less than the critical dilution, enter a "1"; otherwise, enter a "0" under Parameter No. 51443 (reported on quarterly DMR);

(D) If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one scheduled toxicity test;

(E) If retests are not required, Report NODI=9 (Conditional Monitoring - Not Required This Period) under Parameter Nos. 22415, 22416, and 51443 (reported on quarterly DMR)

iv. DMR parameters

Report the following parameters on the DMR:

a. Scheduled DMR: TLP6C, TOP6C, TPP6C, TGP6C, TQP6C, 22418, 22419, 51444, TLP3B, TOP3B, TPP3B, TGP3B, TQP3B, 22415, 22416, and 51443.

E. TOXICITY REDUCTION EVALUATIONS (TREs)

TREs for lethal and sub-lethal effects are performed in a very similar manner. EPA Region 6 is currently addressing TREs as follows: a sub-lethal TRE (TRE_{SL}) is triggered based on three sub-lethal test failures while a lethal effects TRE (TRE_{L}) is triggered based on only two test failures for lethality. In addition, EPA Region 6 will consider the magnitude of toxicity and use flexibility when considering a TRE_{SL} where there are no effects at effluent dilutions of 75% or lower.

i. Within ninety (90) days of confirming toxicity, as outlined above, the permittee shall submit a Toxicity Reduction Evaluation (TRE) Action Plan and Schedule for conducting a TRE. The TRE Action Plan shall specify the approach and methodology to be used in performing the TRE. A Toxicity Reduction Evaluation is an investigation intended to determine those actions necessary to achieve compliance with water quality-based effluent limits by reducing an effluent's toxicity to an acceptable level. A TRE is defined as a step-wise process which combines toxicity testing and analyses of the physical and chemical characteristics of a toxic effluent to identify the constituents causing effluent toxicity and/or treatment methods which will reduce the effluent toxicity. The goal of the TRE is to maximally reduce the toxic effects of effluent at the critical dilution and includes the following:

a. Specific Activities. The plan shall detail the specific approach the permittee intends to utilize in conducting the TRE. The approach may include toxicity

characterizations, identifications and confirmation activities, source evaluation, treatability studies, or alternative approaches. When the permittee conducts Toxicity Characterization Procedures, the permittee shall perform multiple characterizations and follow the procedures specified in the documents "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA-600/6-91/003) and "Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I" (EPA-600/6-91/005F), or alternate procedures. When the permittee conducts Toxicity Identification Evaluations and Confirmations, the permittee shall perform multiple identifications and follow the methods specified in the documents "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081), as appropriate.

The documents referenced above may be obtained through the National Technical Information Service (NTIS) by phone at (703) 487-4650, or by writing:

U.S. Department of Commerce
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

b. Sampling Plan (e.g., locations, methods, holding times, chain of custody, preservation, etc.). The effluent sample volume collected for all tests shall be adequate to perform the toxicity test, toxicity characterization, identification and confirmation procedures, and conduct chemical specific analyses when a probable toxicant has been identified;

c. Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct concurrent with toxicity testing, chemical specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity. Where lethality was demonstrated within 48 hours of test initiation, each composite sample shall be analyzed independently. Otherwise, the permittee may substitute a composite sample, comprised of equal portions of the individual composite samples, for the chemical specific analysis;

d. Quality Assurance Plan (e.g., QA/QC implementation, corrective actions, etc.); and

e. Project Organization (e.g., project staff, project manager, consulting services, etc.).

ii. The permittee shall initiate the TRE Action Plan within thirty (30) days of plan and schedule submittal. The permittee shall assume all risks for failure to achieve the required toxicity reduction.

iii. The permittee shall submit a quarterly TRE Activities Report, with the Discharge

Monitoring Report in the months of January, April, July and October, containing information on toxicity reduction evaluation activities including:

a. any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;

b. any studies/evaluations and results on the treatability of the facility's effluent toxicity; and

c. any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant toxicity at the critical dilution.

iv. The permittee shall submit a Final Report on Toxicity Reduction Evaluation Activities no later than twenty-eight (28) months from confirming toxicity in the retests, which provides information pertaining to the specific control mechanism selected that will, when implemented, result in reduction of effluent toxicity to no significant toxicity at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism.

v. Quarterly testing during the TRE is a minimum monitoring requirement. EPA recommends that permittees required to perform a TRE not rely on quarterly testing alone to ensure success in the TRE, and that additional screening tests be performed to capture toxic samples for identification of toxicants. Failure to identify the specific chemical compound causing toxicity test failure will normally result in a permit limit for whole effluent toxicity limits per federal regulations at 40 C.F.R. § 122.44(d)(1)(v).

F. MONITORING FREQUENCY REDUCTION

i. The permittee may apply for a testing frequency reduction upon the successful completion of the first three years (12 quarters) (in accordance with Item A.i.) of the current permit term of testing for one or both test species, with no lethal or sub-lethal effects demonstrated at or below the critical dilution. If granted, the monitoring frequency for that test species may be reduced to not less than once per year for the less sensitive species (usually the Fathead minnow) and not less than once per six months for the more sensitive test species (usually the *Ceriodaphnia dubia*).

ii. CERTIFICATION - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria in Item C.i. above. In addition, the permittee must provide a list with each test performed including test initiation date, species, NOECs for lethal and sub-lethal effects, and the maximum coefficient of variation for the controls. Upon review and acceptance of this information, the agency will issue a letter of confirmation of the monitoring frequency reduction. A copy of the letter will be forwarded to the agency's Permit Compliance System section to update the permit reporting requirements.

iii. SUB-LETHAL OR SURVIVAL FAILURES - If any test fails the lethal or sub-lethal endpoint at any time during the life of this permit, three consecutive monthly retests are required and the monitoring frequency for the affected test species may be increased to once per quarter until the permit is re-issued. Monthly retesting is not required if the permittee is performing a TRE.

iv. Any monitoring frequency reduction granted applies only until the expiration date of this permit, at which time the monitoring frequency for both test species reverts to once per quarter until the permit is re-issued.

9. WHOLE EFFLUENT TOXICITY LIMITS (7-DAY CHRONIC NOEC FRESHWATER)

A. SCOPE AND METHODOLOGY

i. The permittee shall test the effluent for toxicity in accordance with the provisions in this section.

APPLICABLE TO FINAL OUTFALL:	010
REPORTED ON DMR AS FINAL OUTFALL:	010
CRITICAL DILUTION (%):	100%
EFFLUENT DILUTION SERIES (%):	32%, 42%, 56%, 80%, and 100%
CHRONIC LIMIT - LETHALITY:	not < 100%
CHRONIC LIMIT - SUB-LETHAL:	not < 80%
SCHEDULE OF COMPLIANCE:	NO
TESTING FREQUENCY:	once/quarter
COMPOSITE SAMPLE TYPE:	Defined in Paragraph B.iv.a
TEST SPECIES/METHODS:	40 C.F.R. Part 136

Ceriodaphnia dubia chronic static renewal survival and reproduction test, Method 1002.0, EPA-821-R-02-013, or the most recent update thereof. This test should be terminated when 60% of the surviving females in the control produce three broods or at the end of eight days, whichever comes first.

Pimephales promelas (Fathead minnow) chronic static renewal 7-day larval survival and growth test, Method 1000.0, EPA-821-R-02-013, or the most recent update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

ii. The NOEC (No Observed Effect Concentration) is herein defined as the greatest effluent dilution at and below which toxicity (lethal or sub-lethal) that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. Chronic lethal test failure is defined as a demonstration of a statistically significant lethal effect at test completion to a test species at or below the critical dilution. Chronic sub-lethal test failure is defined as a demonstration of a statistically significant sub-lethal effect (i.e., growth or reproduction) at test completion to a test species at or below the critical dilution.

iii. The conditions of this item are effective beginning with the effective date of the WET limit. When the effluent fails the chronic endpoint below the required limit specified in Item A.i., the permittee shall be considered in violation of this permit limit and the frequency for the affected species will increase to monthly until such time compliance with the No Observed Effect Concentration (NOEC) effluent limitation is demonstrated for a period of three consecutive months, at which time the permittee may return to the testing frequency stated in PART I of this permit. The purpose of the increased frequency WET testing is to determine the duration of a toxic event. A test that meets all test acceptability criteria and demonstrates significant toxic effects does not need additional confirmation. Such testing cannot confirm or disprove a previous test result.

iv. If under a TRE, the permittee may conduct quarterly testing as a minimum monitoring requirement for the organism(s) under investigation for the duration of the TRE. Upon completion of the TRE, monitoring will revert back to the conditions specified in Item A.iii.

v. This permit may be reopened to require chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.

B. REQUIRED TOXICITY TESTING CONDITIONS

i. Test Acceptance

The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied, including the following additional criteria:

a. The toxicity test control (0% effluent) must have survival equal to or greater than 80%.

b. The mean number of *Ceriodaphnia dubia* neonates produced per surviving female in the control (0% effluent) must be 15 or more.

c. 60% of the surviving control females must produce three broods.

d. The mean dry weight of surviving Fathead minnow larvae at the end of the 7 days in the control (0% effluent) must be 0.25 mg per larva or greater.

e. The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for: the young of surviving females in the *Ceriodaphnia dubia* reproduction test, the growth and survival of the Fathead minnow test.

f. The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal or sub-lethal effects are exhibited for: the young of surviving females in the *Ceriodaphnia dubia* reproduction test; the growth and survival endpoints in the Fathead minnow test.

g. If a test passes, yet the percent coefficient of variation between replicates is greater than 40% in the control (0% effluent) and/or in the critical dilution for: the young of surviving females in the *Ceriodaphnia dubia* reproduction test; the growth and survival endpoints of the Fathead minnow test, the test is determined to be invalid. A repeat test shall be conducted within the required reporting period of any test determined to be invalid.

h. If a test fails, test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%.

i. A Percent Minimum Significant Difference (PMSD) range of 13 - 47 for *Ceriodaphnia dubia* reproduction;

j. A PMSD range of 12 - 30 for Fathead minnow growth.

ii. Statistical Interpretation

a. For the *Ceriodaphnia dubia* survival test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be Fisher's Exact Test as described in EPA-821-R-02-013 or the most recent update thereof.

b. For the *Ceriodaphnia dubia* reproduction test and the Fathead minnow larval survival and growth test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in EPA-821-R-02-013, or the most recent update thereof.

c. If the conditions of Test Acceptability are met in Item B.i above and the percent survival of the test organism is equal to or greater than 80% in the critical dilution concentration and all lower dilution concentrations, the test shall be considered to be a passing test, and the permittee shall report a survival NOEC of not less than the critical dilution for the DMR reporting requirements found in Item C below.

iii. Dilution Water

a. Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and alkalinity to the closest downstream perennial water where the receiving stream is classified as intermittent or where the receiving stream has no flow due to zero flow conditions.

b. If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria of Item B.i), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:

(1) a synthetic dilution water control which fulfills the test acceptance requirements of Item B.i was run concurrently with the receiving water control;

(2) the test indicating receiving water toxicity has been carried out to completion (i.e., 7 days);

(3) the permittee includes all test results indicating receiving water toxicity with the full report and information required by Item C.i below; and

(4) the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.

iv. Samples and Composites

a. The permittee shall collect a minimum of three flow-weighted composite samples from the outfall(s) listed at Item A.i above. Unless otherwise stated in this section, a composite sample for WET shall consist of a minimum of 12 subsamples gathered at equal time intervals during a 24-hour period.

b. The permittee must collect all three flow-weighted composite samples within the monitoring period. The permittee shall collect second and third composite samples for use during 24-hour renewals of each dilution concentration for each test. The permittee must collect the composite samples such that the effluent samples are representative of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on a regular or intermittent basis.

c. The permittee must collect all three flow-weighted composite samples within the monitoring period. Second and/or third composite samples shall not be collected into the next monitoring period; such tests will be determined to not meet either reporting period requirements. Monitoring period definitions are listed in Part IV.

d. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 72 hours. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite sample. Samples shall be chilled to between 0 and 6 degrees Centigrade during collection, shipping, and/or storage.

e. If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions and the sample holding time are waived during that sampling period. However, the permittee must have collected an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item C of this section

f. MULTIPLE OUTFALLS: If the provisions of this section are applicable to multiple outfalls, the permittee shall combine the composite effluent samples in proportion to the average flow from the outfalls listed in Item A.i above for the day the sample was collected. The permittee shall perform the toxicity test on the flow-weighted composite of the outfall samples.

g. If chlorination is part of the treatment process, the permittee shall not allow the sample to be dechlorinated at the laboratory. At the time of sample collection the permittee shall measure the TRC of the effluent. The measured concentration of TRC for each sample shall be included in the lab report submitted by the permittee.

C. REPORTING

i. The permittee shall prepare a full report of the results of all tests conducted pursuant to this section in accordance with the Report Preparation Section of EPA-821-R-02-013, or the most current publication, for every valid or invalid toxicity test initiated whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of PART III.C.7 of this permit. The permittee shall submit full reports. For any test which fails, is considered invalid or which is terminated early for any reason, the full report must be submitted for agency review.

ii. The permittee shall report the Whole Effluent Toxicity NOECs under Parameter No. 51710 for *C. dubia* and 51714 for *P. promelas* on the Scheduled DMR for that reporting period in accordance with PART III.D.4 of this permit.

A valid test for each species must be reported on the Scheduled DMR during each reporting period specified in PART I of this permit. The full reports for all valid tests,

invalid tests, repeat tests (for invalid tests), and increased frequency tests (for tests previously failed) performed during the reporting period must be attached to the DMR for Agency review.

iii. The permittee shall submit the results of the valid toxicity test on the Scheduled DMR for that reporting period in accordance with PART III.D.4 of this permit, as follows below. The permittee shall submit the results of the valid monthly increased frequency toxicity tests on the Unscheduled DMRs. If testing on a quarterly basis, the permittee may substitute one of the monthly increased frequency toxicity tests in lieu of one Scheduled toxicity test on the Scheduled DMR. Only results of valid tests are to be reported on a DMR.

a. *Pimephales promelas* (Fathead minnow)

(1) If the No Observed Effect Concentration (NOEC) for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TLP6C

(2) Report the NOEC value for survival, Parameter No. TOP6C

(3) Report the NOEC value for growth, Parameter No. TPP6C

(4) If the NOEC for growth is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TGP6C

(5) Report the highest (critical dilution or control) Coefficient of Variation for growth, Parameter No. TQP6C

(6) Report the lowest NOEC value for survival or growth, Limit Parameter No. 51714

(7) The permittee shall submit the results of the monthly increased frequency toxicity tests on the Unscheduled DMRs.

b. *Ceriodaphnia dubia*

(1) If the NOEC for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TLP3B

(2) Report the NOEC value for survival, Parameter No. TOP3B

(3) Report the NOEC value for reproduction, Parameter No. TPP3B

(4) If the NOEC for reproduction is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TGP3B

(5) Report the higher (critical dilution or control) Coefficient of Variation for reproduction, Parameter No. TQP3B

(6) Report the lowest NOEC value for survival or reproduction, Limit Parameter No. 51710

(7) The permittee shall submit the results of the monthly increased frequency toxicity tests on the Unscheduled DMRs.

iv. DMR parameters

Report the following parameters on the DMR:

(a) Scheduled DMR: 51714, TLP6C, TOP6C, TPP6C, TGP6C, TQP6C, 51710 TLP3B, TOP3B, TPP3B, TGP3B, TQP3B.

(b) Unscheduled DMR: 51714, TLP6C, TOP6C, TPP6C, TGP6C, TQP6C , 51710 TLP3B, TOP3B, TPP3B, TGP3B, TQP3B.

D. Reserved.

E. TOXICITY RE-OPENER

i. If the TRE has identified the source of toxicity and led to the successful elimination of effluent toxicity at the critical dilution, the WET final effluent limits may be replaced by monitoring and reporting only requirement thru a major permit modification. Otherwise, the permittee must comply with the final WET effluent limits.

ii. If the TRE has not led to the successful elimination of effluent toxicity at the critical dilution, but has identified a causal parameter, the WET final effluent limit may be replaced by monitoring and reporting only requirement thru a major permit modification, with the addition of a limit for the causal parameter.

(Note: A modified permit must be effective prior to the effective date of the WET limits.)

F. MONITORING FREQUENCY REDUCTION

This section does not apply to any species for which the permit establishes new whole effluent toxicity (WET) limits. For the first five years after the effective date of a WET limit, the minimum monitoring frequency for the affected species is once per quarter or once per month (in accordance with Item A.i.).

i. The permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters or first twelve consecutive months (in accordance with Item A.i.) of the current permit term of testing for a test species, with no lethal or sub-lethal effects demonstrated at or below the critical dilution. If granted,

the monitoring frequency for that test species may be reduced to not less than once per year for the less sensitive species (usually the Fathead minnow) and not less than once per six monthsfor the more sensitive test species (usually the *Ceriodaphnia dubia*).

ii. CERTIFICATION - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria in Item B.i. above. In addition the permittee must provide a list with each test performed including test initiation date, species, NOECs for lethal and sub-lethal effects and the maximum coefficient of variation for the controls. Upon review and acceptance of this information the agency will issue a letter of confirmation of the monitoring frequency reduction. A copy of the letter will be forwarded to the agency's Permit Compliance System section to update the permit reporting requirements.

iii. SUB-LETHAL OR SURVIVAL FAILURES - If any test fails the lethal or sub-lethal endpoint at any time during the life of this permit, three consecutive monthly retests are required and the monitoring frequency for the affected test species may be increased to once per quarter until the permit is re-issued.

iv. This monitoring frequency reduction applies only until the expiration date of this permit, at which time the monitoring frequency for both test species reverts to once per quarter until the permit is re-issued.

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 statues 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 Fact Sheet, 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 25th 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 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 25th 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 25th 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 $CBOD_5$/BOD_5 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. **"Weekday"** means Monday – Friday.

Final Fact Sheet

This Fact Sheet 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 AR0037800 with Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ) Arkansas Facility Identification Number (AFIN) 70-00098 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 and physical location is:

Clean Harbors El Dorado, LLC
309 American Circle
El Dorado, AR 71730

3. PREPARED BY

The permit was prepared by:

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4. PERMIT ACTIVITY

Previous Permit Effective Date:	October 1, 2016
Previous Permit Expiration Date:	September 30, 2021

The permittee submitted a permit renewal application on March 31, 2021. Additional information for technical completeness was received August 31, 2021. The discharge permit is reissued for a 5-year term in accordance with regulations promulgated at 40 C.F.R. § 122.46(a).

In the permit application, the permittee requested three changes to the permit. These changes and the OWQ's responses are as follows:

Request 1: Per the letter to DEQ dated September 30, 2017, and DEQ's response dated April 3, 2018, Clean Harbors El Dorado, LLC requested that Outfall 010 be added to the permit. Outfall 010 will be located at the point of discharge from the WWTP into the East Conveyance Ditch. The application includes analytical data for Outfall 010.

Response 1: The OWQ has reviewed the documents and will include Outfall 010 with the appropriate limitations in the permit.

Request 2: Upon completion of the CAP described in the application, the current Outfall 009 discharges only effluent from the WWTP and stormwater. With WWTP discharges monitored at Outfall 010, Outfall 009 is eligible for coverage under the Industrial Stormwater General Permit (IGP, ARR000000) and can be removed from this NPDES permit pending IGP coverage. The permittee intends to prepare a Stormwater Pollution Prevention Plan and submit a Notice of Intent seeking coverage under the IGP for stormwater discharges from Outfall 009.

Response 2: The notice of intent and all required attachments have been submitted to and approved by the OWQ. Outfall 009 has been removed from this permit.

Request 3: The permittee has conducted simultaneous WET testing on samples treated and untreated with UV light. The UV-treated samples often demonstrate less toxicity than the untreated samples indicating pathogen interference. The current permit requires WET testing on untreated samples. The permittee is requesting that the renewal permit be revised to allow WET testing on UV-treated samples to eliminate potential pathogen interference and unnecessary retesting.

Response 3: Pathogenic interference is typically indicated by sporadic impacts being noted in the various dilutions and within a dilution. Looking at the data, the majority of the effects are only noted in the 80% dilution. This does not clearly demonstrate pathogenic interference. Therefore, the change will not be made.

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_5 - five-day biochemical oxygen demand
BPJ - best professional judgment
BPT - best practicable control technology currently available
$CBOD_5$ - 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_3-N - ammonia nitrogen
NO_3 + NO_2-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.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0037800_Compliance%20Review_20210729.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.C.5 of the permit now requires that DMRs be submitted electronically via NetDMR.
2. Outfall 001 changes
   a. The acute WET testing requirements have been replaced with chronic WET testing requirements.
   b. Outfall 001 coordinates have been corrected.
   c. TSS, Total Recoverable Lead, and Total Recoverable Zinc monitoring and reporting requirements have been added at Outfall 001. See 7.A. of this Fact Sheet for additional information.
   d. Total Recoverable Mercury, Total Recoverable Silver, Total Recoverable Arsenic, and Total Recoverable Thallium monitoring and reporting requirements have been added to the permit at Outfall 001. See Item No. 11.E of this Fact Sheet for additional information.
3. Outfall 007 Changes
   a. Air compressor condensate, steam condensate, and nitrogen condensates have been added as effluent sources to Outfall 007.
   b. The acute WET testing requirements at Outfall 007 have been changed to chronic WET testing requirements.
   c. TSS monitoring and reporting requirements have been added to the permit. See Item No. 7.A of this Fact Sheet for additional information.
4. Outfall 009 was removed from the permit.
5. Outfall 010 Changes (as compared to Outfall 009 in previous permit)
   a. Outfall 010 has been added to the permit. See Item No. 4, Requests 1 and 2 for additional information.
   b. Total Recoverable Arsenic monitoring and reporting requirements for the first four quarters of the permit have been added at Outfall 010. See Item No. 11.E of this Fact Sheet for additional information.
   c. TSS monitoring and reporting requirements have been added to the permit. See Item No. 7.A of this Fact Sheet for additional information.
   d. Total Recoverable Mercury limits have been added at Outfall 010 along with a Schedule of Compliance. See Item Nos. 11.E and 15 of this Fact Sheet for additional information.
   e. Air compressor condensate, steam condensate, and nitrogen condensates have been added as effluent sources to Outfall 010.
6. Monitoring frequency reduction language has been added to Part II of the permit.
7. The BMP language has been modified since the permittee now has coverage for some stormwater runoff under the general permit for stormwater runoff associated with industrial activity.

6. RECEIVING STREAM SEGMENT AND DISCHARGE LOCATION

The outfalls are located at the following coordinates based on the permit application and confirmed with Google Earth using WGS84:

Outfall 001: Latitude: 33° 12' 25.1" N; Longitude: 92° 38' 01.8" W
Outfall 007: Latitude: 33° 12' 13.2" N; Longitude: 92° 37' 34.9" W
Outfall 010: Latitude: 33° 12' 06.6" N; Longitude: 92° 37' 34.9" W

The receiving waters named:

Outfall 001: an unnamed tributary of Boggy Creek, thence to Boggy Creek, thence to Bayou de Loutre
Outfall 007: Boggy Creek, thence to Bayou de Loutre
Outfall 010: man-made ditch to Boggy Creek, thence to Bayou de Loutre

All receiving streams are in Segment 2D of the Ouachita River Basin. The receiving stream with Assessment Unit AR_08040202_007 (closest downstream 3-digit reach code assigned to Boggy Creek) is a Water of the State classified for secondary contact recreation, 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

Bayou de Loutre is on the 303(d) list for pH, Pb, Zn, and turbidity. The permit already contains an effluent pH range which is protective of the water quality of the receiving stream at all outfalls. The permit already contains monitoring requirements for Pb and Zn at Outfall 007. Monitor and reporting requirements for Pb, Zn, and TSS have been added to the permit at Outfalls 001 and 010. Monitoring and report requirements for TSS have been added to the permit at Outfall 007.

B. Applicable Total Maximum Daily Load (TMDL) Reports

TMDLs for Segments Listed for Mercury in Fish Tissue for the Ouachita River Basin, and Bayou Bartholomew, Arkansas and Louisiana to Columbia was finalized in 2002.

Outfall 001 and Outfall 010

This facility is identified in the Appendix of the TMDL report entitled *TMDLs for Segments Listed for Mercury in Fish Tissue for the Ouachita River Basin, and Bayou Bartholomew, Arkansas and Louisiana to Columbia,* approved by EPA on December 18, 2002. The point sources identified within the watershed covered under this TMDL contribute less than 0.2% of the current total mercury load to the watershed in this TMDL. The TMDL estimates that 99.8% of the current total mercury load is from non-point and background sources

(atmospheric deposition and erosion of geology and sediment). The TMDL further states that even if the NPDES point sources were to reduce their mercury wasteload to zero, the required reduction in the watershed mercury load would not be attained because of the very high percentage of mercury loadings from nonpoint and background sources. The instream water quality standard for Mercury in Arkansas is 0.012 µg/L. As stated in the executive summary of the above referenced TMDL report, there have been no known violations of this numeric mercury water quality standard or the fishable designated uses in any of the waterbodies included in this TMDL study. The purpose of this TMDL was to determine the mercury reductions needed to reduce the levels of mercury in fish tissue to values that would support the narrative designated uses of the waterbodies (i.e. fish consumption). The TMDL further states that reductions in mercury loading to the watershed as a result of implementing mercury emission regulations and erosion BMPs were calculated using average mercury tissue concentration in largemouth bass. The TMDL states that using the average mercury tissue concentrations to estimate reductions in mercury loads is considered adequate to protect human health from effects due to long term exposure. In estimating the current total mercury load and required reduction of total current load, the TMDL did not require any reductions from current estimated point source loads. The TMDL only requires reductions from atmospheric deposition, soil erosion, and geologic erosion. The TMDL states that this calculated reduction from mercury air emission regulations and erosion BMPs results in watershed mercury loads less than the TMDL (i.e. complies with the TMDL). Therefore, taking into consideration these findings of the TMDL, permit limits for mercury are not required at this outfall, provided that the facility does not show reasonable potential to cause or contribute to an exceedance of the water quality standard. Monitoring and reporting requirements have been included in the permit based on the past and present operations at this facility.

However, the facility has reported mercury data that shows reasonable potential to exceed water quality standards at Outfall 010. Based on past and present operations at this facility, limits for mercury have been included in the permit at Outfall 010.

Outfall 007

Section 2.6 of the TMDL states "ENSCO, Inc. (NPDES permit no. AR0037800) located in Union County was the only facility that was identified as having an NPDES permit limit for mercury. ENSCO has a facility flow rate of 1.29 MGD and a permit limit of 0.2 µg/l for total recoverable mercury." This information is repeated in Section 4.4.2.1 of the TMDL. Section 4.6.1 of the TMDL states "No change in mercury limits is provided for the NPDES point source with permit limits for mercury." The only Mercury limit in NPDES Permit No. AR0037800 at that time was applicable to Outfall 007. The Mercury limit at Outfall 007 is therefore being carried forth unchanged in this renewal permit.

Mercury limits at Outfall 007 were calculated in accordance with the Division's procedures in Appendix D of the CPP (See Item No. 11.E of this Fact Sheet for additional information.)

In order to demonstrate that the requirements of the permit at Outfall 007 are in line with the assumptions and requirements of the TMDL, mass loadings were calculated using the effluent flow of 1.29 MGD listed in the TMDL, and the following equation:

Mass (lbs/day) = Concentration (mg/l) × Flow (MGD) × 8.34

Effluent Flow = 1.29 MGD
Concentration (Permit Limit) = 0.14 µg/L = 0.00014 mg/l
Conversion Factor = 8.34

0.00014 * 1.29 * 8.34 = 0.00151 lb/day

Grams per year are calculated by multiplying the lbs/day determined above by the number of grams per pound (453.6 grams/lb).

0.00151 lb/day * 453.6 grams/lb * 365 days/year = 250.03 grams/year

The grams per year calculated above is then compared with the grams/year listed in the TMDL.

250.03 grams/year < 356 grams/year listed in TMDL

The average monthly concentration limit is the appropriate number to use in these calculations instead of the daily maximum limit because if the actual effluent numbers are above the average monthly limit, the permittee would be in violation of the permit. That is, the long-term average concentration of Total Recoverable Mercury in the effluent cannot be close to or at the daily maximum concentration limit in order to meet permit requirements.

The Division has therefore determined that the permit requirements meet the intention and assumptions of the TMDL.

C. **Endangered Species**

No comments on the application were received from the USF&WS. The draft permit and Fact Sheet 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. Flows:

Outfall 001: variable due to stormwater (0.0648 MGD avg. monthly flow March 2021)
Outfall 007: HCR – 7% of upstream flow (0.968 MGD, highest monthly avg. flow – July 2019) The HCR conditions were first included in a modified permit in 2003.
Outfall 010: 0.135 MGD (expected flow per EPA Form 2C, Page 2)

B. Type of Treatment:

Outfall 001: detention area
Outfall 007: 3 sedimentation ponds in series with HCR discharge piping system installed through east levee of third pond.
Outfall 010: oil separation, flocculation and sedimentation, DAF unit (as needed), carbon adsorption, sludge disposal, aeration, and pH adjustment

C. Discharge Description:

Outfall 001: stormwater from northwest corner of property
Outfall 007: stormwater from northeast corner of property and process areas, air compressor condensate, steam condensate, nitrogen condensate, boiler/cooling water blowdown, and non-contact cooling water
Outfall 010: stormwater, air compressor condensate, steam condensate, nitrogen condensate, boiler/cooling water blowdown, and non-contact cooling water

Cooling water is obtained from a well or from one of the retention areas (i.e., sedimentation ponds). Therefore, the requirements of CWA § 316(b) are not applicable to this facility.

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 115 is greater than 80, this facility is classified as a major 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 4953 or North American Industry Classification System (NAICS) code of 562211, the applicant's activities are the operation of a hazardous waste treatment and disposal facility.

10. SLUDGE PRACTICES

Sludge is disposed in RCRA permitted class C landfills.

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
Outfall 001								
TSS	N/A	N/A	Report	Report	N/A	N/A	Report	Report
TOC	N/A	N/A	N/A	55	N/A	55	N/A	55
Total Rec. Arsenic[1]	N/A	N/A	Report µg/l	Report µg/l	N/A	N/A	Report µg/l	Report µg/l
Total Rec. Lead	N/A	N/A	Report µg/l	Report µg/l	N/A	N/A	Report µg/l	Report µg/l
Total Rec. Mercury	N/A	N/A	Report µg/l	Report µg/l	N/A	N/A	Report µg/l	Report µg/l
Total Rec. Silver	N/A	N/A	Report µg/l	Report µg/l	N/A	N/A	Report µg/l	Report µg/l
Total Rec. Thallium[1]	N/A	N/A	Report µg/l	Report µg/l	N/A	N/A	Report µg/l	Report µg/l
Total Rec. Zinc	N/A	N/A	Report µg/l	Report µg/l	N/A	N/A	Report µg/l	Report µg/l
pH	6.0 – 9.0 s.u.		N/A		6.0 – 9.0 s.u.		6.0 – 9.0 s.u.	

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
Chronic WET Testing	N/A		Report		Report (Acute)		Report	
Outfall 007								
Flow	N/A	N/A	Report MGD	Report MGD	Report MGD	Report MGD	Report MGD	Report MGD
Upstream Flow	N/A	N/A	Report MGD	Report MGD	Report MGD	Report MGD	Report MGD	Report MGD
Flow as % of Upstream Flow	N/A	7%	N/A	N/A	N/A	7%	N/A	7%
TSS	N/A	N/A	Report	Report	N/A	N/A	Report	Report
TOC	N/A	N/A	N/A	55	N/A	55	N/A	55
O & G	10	15	N/A	N/A	10	15	10	15
Chlorides	N/A	N/A	Report	Report	Report	Report	Report	Report
Sulfates	N/A	N/A	Report	Report	Report	Report	Report	Report
TDS	N/A	N/A	Report	Report	Report	Report	Report	Report
1,2-Dichloroethane	N/A	N/A	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l
Dichloromethane	N/A	N/A	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l
Total Rec. Lead[2]	40.33 µg/l	80.91 µg/l	N/A	N/A	40.38 µg/l	81.02 µg/l	40.33 µg/l	80.91 µg/l
Total Rec. Mercury	0.14 µg/l	0.29 µg/l	N/A	N/A	0.14 µg/l	0.29 µg/l	0.14 µg/l	0.29 µg/l
Total Rec. Zinc	N/A	N/A	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l
Total Rec. Arsenic[1]	N/A	N/A	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l
pH	6.0 – 9.0 s.u.		N/A		6.0 – 9.0 s.u.		6.0 – 9.0 s.u.	
Chronic WET Testing	N/A		Report		Report (Acute)		Report	
Outfall 010								
TSS	N/A	N/A	Report	Report	N/A	N/A	Report	Report
TOC	N/A	N/A	N/A	55	N/A	55	N/A	55
O & G	10	15	N/A	N/A	10	15	10	15
Chlorides	631	631	N/A	N/A	631	631	631	631
Sulfates	63	63	N/A	N/A	63	63	63	63
TDS	1360	1360	N/A	N/A	1360	1360	1360	1360
Temperature	86°F, Inst. Max.		N/A		86°F, Inst. Max.		86°F, Inst. Max.	

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
1,2-Dichloroethane	N/A	N/A	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l
Dichloromethane	N/A	N/A	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l
Total Rec. Arsenic[1]	N/A	N/A	Report µg/l	Report µg/l	N/A	N/A	Report µg/l	Report µg/l
Total Rec. Cadmium	2.03 µg/l	4.08 µg/l	N/A	N/A	2.03 µg/l	4.08 µg/l	2.03 µg/l	4.08 µg/l
Total Rec. Mercury	0.0134 µg/l	0.0269 µg/l	N/A	N/A	N/A	N/A	0.0134 µg/l	0.0269 µg/l
Total Rec. Lead	3.80 µg/l	7.61 µg/l	N/A	N/A	3.80 µg/l	7.61 µg/l	3.80 µg/l	7.61 µg/l
Total Rec. Selenium	17.41 µg/l	34.93 µg/l	N/A	N/A	17.41 µg/l	34.93 µg/l	17.41 µg/l	34.93 µg/l
Total Rec. Zinc	N/A	N/A	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l
pH	6.0 – 9.0 s.u.		N/A		6.0 – 9.0 s.u.		6.0 – 9.0 s.u.	
Chronic WET Lethality	Not < 100%		N/A		Not < 100%		Not < 100%	
Chronic WET Sub-lethality	Not < 80%		N/A		Not < 80%		Not < 80%	

[1] The monitoring and reporting requirements for Total Recoverable Arsenic and Total Recoverable Thallium are only applicable for the first four quarters of the permit.
[2] Limit changed to correct rounding error.

A. Justification for Limitations and Conditions of the Permit

Parameter	Water Quality or Technology	Justification
Outfall 001		
TSS	Technology	2018 303(d) list
TOC	Technology	40 C.F.R. § 122.44(l) and previous permit
Total Rec. Arsenic	Technology	Appendix D of the CPP
Total Rec. Lead	Technology	2018 303(d) list and Rule 2.508
Total Rec. Mercury	Technology	Rule 2.508
Total Rec. Silver	Technology	Rule 2.508
Total Rec. Thallium	Technology	Appendix D of the CPP
Total Rec. Zinc	Technology	2018 303(d) list
pH	Water Quality	Rule 2.504, CWA § 402(o), and previous permit
Outfall 007		

Parameter	Water Quality or Technology	Justification
Upstream Flow	Water Quality	CWA § 402(o) and previous permit
Flow as % of Upstream Flow	Water Quality	CWA § 402(o) and previous permit
TSS	Technology	2018 303(d) list
TOC	Technology	40 C.F.R. § 122.44(l) and previous permit
O & G	Water Quality	Rule 2.510, CWA § 402(o), and previous permit
Chlorides	Technology	Chapter IX CPP, Administrative Guidance Document
Sulfates	Technology	Chapter IX CPP, Administrative Guidance Document
TDS	Technology	Chapter IX CPP, Administrative Guidance Document
1,2-Dichloroethane	Technology	"EPA Freshwater Screening Benchmarks" used for Ecological Risk Assessment, 40 C.F.R. § 122.44(l), and previous permit
Dichloromethane	Technology	40 C.F.R. § 122.44(l) and previous permit
Total Rec. Lead	Water Quality	Rule 2.508, 2018 303(d) list, CWA § 402(o), and previous permit
Total Rec. Mercury	Water Quality	Rule 2.508, CWA § 402(o), previous permit, and *TMDLs for Segments Listed for Mercury in Fish Tissue for the Ouachita River Basin, and Bayou Bartholomew, Arkansas and Louisiana to Columbia*
Total Rec. Zinc	Technology	2018 303(d) list, 40 C.F.R. § 122.44(l), and previous permit
Total Rec. Arsenic	Technology	Appendix D of the CPP
pH	Water Quality	Rule 2.504, CWA § 402(o), and previous permit
Outfall 010		
TSS	Technology	2018 303(d) list
TOC	Technology	previous permit at Outfall 009
O & G	Water Quality	Rule 2.510
Chlorides	Water Quality	Rule 2.511(A), CWA § 402(o), and previous permit
Sulfates	Water Quality	Rule 2.511(A), CWA § 402(o), and previous permit
TDS	Water Quality	Rule 2.511(A), CWA § 402(o), and previous permit
Temperature	Water Quality	Rule 2.501, CWA § 402(o), and previous permit
1,2-Dichloroethane	Technology	"EPA Freshwater Screening Benchmarks" used for Ecological Risk Assessment and previous permit at Outfall 009
Dichloromethane	Technology	previous permit at Outfall 009
Total Rec. Arsenic	Technology	Appendix D of the CPP
Total Rec. Cadmium	Water Quality	Rule 2.508
Total Rec. Mercury	Water Quality	Rule 2.508
Total Rec. Lead	Water Quality	Rule 2.508, 2018 303(d) list
Total Rec. Selenium	Water Quality	Rule 2.508
Total Rec. Zinc	Technology	2018 303(d) list
pH	Water Quality	Rule 2.504

Outfall 001

Monitoring and reporting requirements for TSS and Total Recoverable Zinc have been added to the permit at Outfall 001 based on the 2018 303(d) list.

Monitoring and reporting requirements for Total Recoverable Lead have been added to the permit at Outfall 001 based on the 2018 303(d) list and the results of the PPS evaluation. See Item No.11.E of this Fact Sheet for additional PPS information.

Monitoring and reporting requirements for Total Recoverable Arsenic, Total Recoverable Thallium, Total Recoverable Mercury, and Total Recoverable Silver have been added to the permit at Outfall 001. See Item No. 11.E of this Fact Sheet for additional information.

Outfall 007

Monitoring and reporting requirements for TSS have been added to the permit at Outfall 007 based on the 2018 303(d) list. It is important to note that Total Recoverable Lead and Total Recoverable Zinc, which also are on the 2018 303(d) list, have monitoring requirements that are being continued from the previous permit.

Outfall 010

The requirements for this outfall are mainly based on the requirements for Outfall 009 in the previous permit. The effluent permitted to be discharged through this outfall was discharged through Outfall 009 in the previous permit. The permittee is separating the effluent from the WWTP from the stormwater with which it was comingled after the WWTP and prior to discharge through Outfall 009.

TSS requirements were added to the permit based on the 2018 303(d) list.

See Item No. 11.E of this Fact Sheet below for information regarding the metals limits at this outfall.

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:

   No mass limits are included at Outfall 001 because only stormwater is allowed to be discharged through the outfall. Also, discharges from this outfall are very infrequent.

   No mass limits are included at Outfall 007 because the flow is limited through HCR.

   No mass limits are included at Outfall 010 because the flows will be highly variable due to non-contact cooling water.

2. Daily Maximum Limits:

   The daily maximum limits for TOC at all of the outfalls is based upon the 99th percentile from stormwater runoff associated with various uncontaminated sources in Region VI. This TOC limit was first placed in the permit by EPA Region 6 in the early 1980's, prior to program delegation to the State of Arkansas.

   The O & G daily maximum limit at Outfalls 007 and 010 is based on Rule 2.510.

   The daily maximum limits for metals are based on Rule 2.508 and the procedures set forth in Appendix D, Section IV.B of the CPP.

   The Chlorides and the TDS limits at Outfall 010 (which are continuing unchanged from Outfall 009 of the previous permit) are based on Reg. 2.511(A).

D. **208 Plan (Water Quality Management Plan)**

The 208 Plan, developed by the DEQ under provisions of Section 208 of the federal Clean Water Act, is a comprehensive program to work toward achieving federal water goals in Arkansas. The initial 208 Plan, adopted in 1979, provides for annual updates, but can be revised more often if necessary. There are no changes to the 208 Plan occurring with this permit renewal.

E. **Priority Pollutant Scan (PPS)**

DEQ has reviewed and evaluated the effluent in accordance with the potential toxicity of each analyzed pollutant using the procedures outlined in the Continuing Planning Process (CPP).

The concentration of each pollutant after mixing with the receiving stream was compared to the applicable water quality standards as established in the Arkansas Water Quality Standards (AWQS), Rule 2 (Rule 2.508) and criteria obtained from the "Quality Criteria for Water, 1986 (Gold Book)."

Under Federal Regulation 40 C.F.R. § 122.44(d), as adopted by Rule 6, if a discharge poses the reasonable potential to cause or contribute to an exceedance above a water quality standard, the permit must contain an effluent limitation for that pollutant. Effluent limitations for the toxicants listed below have been derived in a manner consistent with the Technical Support Document (TSD) for Water Quality-based Toxics Control (EPA, March 1991), the CPP, and 40 C.F.R. § 122.45(c).

The following items were used in calculations:

Parameter	Value	Source
Outfall 001		
Discharge Flow = Q	0.0648 MGD = 0.1 cfs	March 2021 DMR
7Q10 Background Flow	0 cfs	U.S.G.S.
LTA Background Flow	0 cfs	Calculated (3×7Q10 per TSD)
Outfall 007		
Discharge Flow = Q	0.07 cfs	Set at 0.07 cfs for calculation purposes due to HCR
7Q10 Background Flow	1 cfs	Set at 1 cfs for caclulation purposes due to HCR
LTA Background Flow	1 cfs	Set at 1 cfs for caclulation purposes due to HCR
Outfall 010		
Discharge Flow = Q	0.14 MGD = 0.21 cfs	Application
7Q10 Background Flow	0 cfs	U.S.G.S.
LTA Background Flow	0 cfs	Calculated (3×7Q10 per TSD)
All Outfalls		
TSS	5 mg/l	CPP
Hardness as $CaCO_3$	31 mg/l	CPP
pH	7.0 s.u.	Neutral pH since no upstream data is available

The following pollutants were reported above detection levels:

Pollutant	Concentration Reported, µg/l	MQL, µg/l
Outfall 001		
Total Rec. Arsenic	5	0.5

Pollutant	Concentration Reported, µg/l	MQL, µg/l
Total Rec. Copper	3.47	0.5
Total Rec. Lead	2.9	0.5
Total Rec. Mercury	0.096	0.005
Total Rec. Nickel	1.5	0.5
Total Rec. Silver	1.8	0.5
Total Rec. Thallium	3.7	0.5
Total Rec. Zinc	9.5	20
Outfall 007		
Total Rec. Antimony	15.6	60
Total Rec. Arsenic	15	0.5
Total Rec. Cadmium	2.6	1
Total Chromium (Tri)	1.6	10
Total Rec. Copper	11	0.5
Total Rec. Lead	6.1[1]	0.5
Total Rec. Mercury	0.043[1]	0.005
Total Rec. Nickel	4.1	0.5
Total Rec. Zinc	159[1]	20
Total Phenols	19	5
Outfall 010		
Total Rec. Arsenic	5.3	0.5
Total Rec. Cadmium	0.76	1
Total Rec. Copper	3.6	0.5
Total Rec. Lead	0.53	0.5
Total Rec. Mercury	0.012	0.012
Total Rec. Nickel	7.3	0.5
Total Rec. Selenium	3.4[1]	5
Total Rec. Zinc	19.06[2]	20

[1] Maximum of 27 data points from DMRs from April 2018 – July 2021.
[2]Geometric mean of 14 data points from application and DMRs.June 2018 – June 2021.

Dichloromethane and 1,2-Dichloroethane have not been included in the PPS analysis since Rule 2 does not contain numerical standards for these parameters. Also, the permit requires monitoring and reporting for the entire term of the permit which is more stringent than the CPP requirements for parameters with no numeric standards in Rule 2.

Instream Waste Concentrations (IWCs) were calculated in the manner described in Appendix D of the CPP and compared to the applicable Criteria. The following tables summarize the results of the analysis. The complete evaluations can be viewed on the Division's website at the following address:

Outfall 001

https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0037800_Outfall%20001%20PPS_20211208.pdf

Outfall 007

https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0037800_Outfall%20007%20PPS_20210814.pdf

Outfall 010

https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0037800_Outfall%20010%20PPS_20210914.pdf

1. **Aquatic Toxicity Evaluation**

Total Rec. Mercury and Total Rec. Lead have not been evaluated for Outfall 007. The permit contains limits for these parameters which cannot be removed due to the applicable TMDL and backsliding (i.e., none of the anti-backsliding exceptions in CWA § 402(o) have been met), respectively.

Total Rec. Cadmium, Total Rec. Lead, and Total Rec. Selenium have not been evaluated for Outfall 010. The permit limits for these parameters are being continued from Outfall 009 in the previous permit because sufficient data is not available at this time to show which waste stream (i.e., stormwater or non-stormwater) primarily contributes these parameters to the effluent.

a. Acute Criteria Evaluation

Pollutant	Concentration Reported (C_e) µg/l	$C_e \times 2.13$[1]	Instream Waste Concentration (IWC)	Criteria[2]	Reasonable Potential (Yes/No)
			Acute, µg/l	Acute, µg/l	
Outfall 001					
Total Rec. Copper	3.7	7.881	7.88	14.79	NO
Total Rec. Lead	2.9	6.177	6.18	87.29	NO
Total Rec. Mercury	0.096	0.20448	0.204	6.70	NO
Total Rec. Nickel	1.5	3.195	3.20	1061.45	NO
Total Rec. Silver	1.8	3.834	3.83	1.51	YES
Total Rec. Zinc	9.5	20.235	20.24	130.87	NO
Outfall 007					
Total Rec. Cadmium	2.6	5.538	0.96	4.37	NO
Total Rec. Copper	11	23.43	4.08	14.79	NO
Total Rec. Nickel	4.1	8.733	1.52	1061.45	NO

Pollutant	Concentration Reported (C_e) µg/l	$C_e \times 2.13$[1]	Instream Waste Concentration (IWC)	Criteria[2]	Reasonable Potential (Yes/No)
			Acute, µg/l	Acute, µg/l	
Total Rec. Zinc	159[3]	159	27.70	130.87	NO
Outfall 010					
Total Rec. Copper	3.6	7.668	7.668	14.79	NO
Total Rec. Mercury	0.012	0.02556	0.02556	6.70	NO
Total Rec. Nickel	7.3	15.549	15.549	1061.45	NO
Total Rec. Zinc	19.06	40.5978	40.5978	130.87	NO

[1] Statistical ratio used to estimate the 95th percentile using a single effluent concentration or the geometric mean of a dataset.
[2] Criteria are from Rule 2.508 unless otherwise specified.
[3] Highest of 27 data points.

b. Chronic Criteria Evaluation

Pollutant	Concentration Reported (C_e) µg/l	$C_e \times 2.13$[1]	Instream Waste Concentration (IWC)	Criteria[2]	Reasonable Potential (Yes/No)
			Chronic, µg/l	Chronic, µg/l	
Outfall 001					
Total Rec. Copper	3.7	7.881	7.88	10.93	NO
Total Rec. Lead	2.9	6.177	6.18	3.40	YES
Total Rec. Mercury	0.096	0.20448	0.204	0.012	YES
Total Rec. Nickel	1.5	3.195	3.20	117.88	NO
Total Rec. Zinc	9.5	20.235	20.24	119.50	NO
Outfall 007					
Total Rec. Cadmium	2.6	5.538	0.52	1.82	NO
Total Rec. Copper	11	23.43	2.21	10.93	NO
Total Rec. Nickel	4.1	8.733	0.82	117.88	NO
Total Rec. Zinc	159[3]	159	14.97	119.50	NO
Outfall 010					
Total Rec. Copper	3.6	7.668	7.668	10.93	NO
Total Rec. Mercury	0.012	0.02556	0.02556	0.012	YES
Total Rec. Nickel	7.3	15.549	15.549	117.88	NO
Total Rec. Zinc	19.06	40.5978	40.5978	119.50	NO

[1] Statistical ratio used to estimate the 95th percentile using a single effluent concentration or the geometric mean of a dataset.
[2] Criteria are from Rule 2.508 unless otherwise specified.

c. Aquatic Life Results

Although reasonable potential for Total Recoverable Lead, Total Recoverable Mercury, and Total Recoverable Silver was demonstrated at Outfall 001, limits for those parameters have not been included in the permit. The test results submitted with the application did not reflect the required MQL and only one test result for each parameter was submitted for all three pollutants. Also, additional samples could not be collected because discharges from Outfall 001 are infrequent. Therefore, at this time, it is not possible to know if reasonable potential truly exists. The permit will contain monitoring and reporting parameters for these three pollutants at Outfall 001 so that a more appropriate reasonable potential determination may be made at the time of the next permit renewal.

The limits for Total Recoverable Lead and Total Recoverable Mercury at Outfall 007 were continued from the previous permit. These limits were calculated in accordance with the procedures outlined in Appendix D of the CPP and may be found using the following link:

https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0037800_Outfall%20007%20Mercury%20and%20Lead%20Limits_20210914.pdf

In the case of Mercury at Outfall 010, the reported result was quantifiable at an appropriate MQL. As can be seen in the tables above, the calculated IWCs for Total Recoverable Mercury at Outfall show reasonable potential to exceed the referenced Arkansas Water Quality Criteria. Therefore, limits for this pollutant must be calculated in the manner described in Appendix D of the CPP and are included in the permit. Calculation of these limits may be found using the following link:

https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0037800_Outfall%20010%20PPS_20210914.pdf

Final Limits		
Pollutant	Monthly Average µg/l	Daily Maximum µg/l
Outfall 007		
Total Recoverable Lead	40.33	80.91
Total Recoverable Mercury	0.14	0.29
Outfall 010		
Total Rec. Mercury	0.0134	0.0269

2. **Human Health (Bioaccumulation) Evaluation**

Pollutant	Concentration Reported (C_e) µg/l	$C_e \times 2.13$[1]	Instream Waste Concentration (IWC)	Criteria[2]	Reasonable Potential (Yes/No)
Outfall 001					
Total Rec. Arsenic	5	10.65	10.65	1.4	YES
Total Rec. Thallium	3.7	7.881	7.88	4.7	YES
Outfall 007					
Total Rec. Antimony	15.6	33.228	3.25	6,400	NO
Total Rec. Arsenic	15	31.95	3.12	1.4	YES
Total Phenols	19	40.47	3.95	N/A	N/A
Outfall 010					
Total Rec. Arsenic	5.3	11.289	11.289	1.4	YES

[1] Statistical ratio used to estimate the 95th percentile using a single effluent concentration or the geometric mean of a dataset.
[2] Adapted from "National Recommended Water Quality Criteria: 2002 – Human Health Criteria Calculation Matrix", EPA. The respective WQC from the noted reference are Consumption of Organism Only values. The values from the reference are for a lifetime risk factor of 10^{-6}. These values have been multiplied by 10 to correspond to human health criteria lifetime risk factor of 10^{-5} as stated in Rule 2.508.

As can be seen in the tables above, the calculated IWCs for Arsenic at Outfalls 001, 007, and 010 as well as Thallium at Outfall 001 are higher than the EPA Water Quality Criterion. A.C.A. § 8-4-216 authorizes the Division to require the submission of any information relevant to meeting the requirements of the Arkansas Water and Air Pollution Control Act. A requirement to monitor and report for Arsenic (at all outfalls) and Thallium (Outfall 001) once per quarter for one year has been added to the permit so that, in the event that a WQS for Arsenic is added to Rule 2.508, data will be available to perform a reasonable potential analysis. This is in accordance with the procedure in Appendix D of the CPP (Appendix D, Part IV – Chemical Specific Standards and Criteria, Section E – Protection of Human Health Criteria of the Discharge Permit, Toxic Control Implementation Procedure).

12. **WHOLE EFFLUENT TOXICITY**

Outfalls 001, 007 and 010 – chronic monitoring

Section 101(a)(3) of the Clean Water Act states that "…it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited." In addition, DEQ is required under 40 C.F.R. §122.44(d)(1), adopted by reference in Rule 6, to include conditions as necessary to achieve water quality standards as established under Section 303 of the Clean Water Act. Arkansas has established a narrative criteria which states "toxic materials shall not be present in receiving waters in such quantities as to be toxic to human, animal, plant or aquatic life or to interfere with the normal propagation, growth and survival of aquatic biota."

Whole effluent toxicity (WET) testing is the most direct measure of potential toxicity which incorporates the effects of synergism of effluent components and receiving stream water

quality characteristics. It is the national policy of EPA to use bioassays as a measure of toxicity to allow evaluation of the effects of a discharge upon a receiving water (49 Federal Register 9016-9019, March 9, 1984). EPA Region 6 and the State of Arkansas are now implementing the Post Third Round Policy and Strategy established on September 9, 1992, and EPA Region 6 Post-Third Round Whole Effluent Toxicity Testing Frequencies, revised March 13, 2000. Whole effluent toxicity testing of the effluent is thereby required as a condition of this permit to assess potential toxicity. The whole effluent toxicity testing procedures stipulated as a condition of this permit are as follows:

TOXICITY TESTS	FREQUENCY
Chronic WET	once/quarter

Requirements for measurement frequency are based on the CPP.

Since 7Q10 is less than 100 cfs (ft^3/sec) at Outfalls 001 and 007, chronic WET testing requirements will be included in the permit at Outfalls 001 and 007.

The calculations for dilution used for chronic WET testing are as follows:

Critical dilution (CD) = (Qd/(Qd + Qb)) × 100

Outfall 001

Qd = Average flow= 0.0648 MGD = 0.1 cfs
7Q10 = 0 cfs
Qb = Background flow = 0.67 × 7Q10 = 0 cfs
CD = (0.1) / (0.1 + 0) × 100 = 100%

Toxicity tests shall be performed in accordance with protocols described in "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms", EPA/600/4-91/002, July 1994. A minimum of five effluent dilutions in addition to an appropriate control (0%) are to be used in the toxicity tests. These additional effluent concentrations at Outfall 001 are 32%, 45%, 56%, 75%, and 100% and at Outfall 007 are 4.0%, 5.3%, 7.1%, 9.5%, and 12.7% (See the CPP). The low-flow effluent concentration (critical dilution) is defined as 100% effluent at Outfall 001 and 9.5% at Outfall 007. The requirement for chronic WET tests is based on the magnitude of the facility's discharge with respect to receiving stream flow. The stipulated test species, *Ceriodaphnia dubia* and the Fathead minnow (*Pimephales promelas*) are representative of organisms indigenous to the geographic area of the facility; the use of these is consistent with the requirements of the State water quality standards. The WET testing frequency has been established to provide data representative of the toxic potential of the facility's discharge, in accordance with the regulations promulgated at 40 C.F.R .§122.48.

Results of all dilutions as well as the associated chemical monitoring of pH, temperature, hardness, dissolved oxygen conductivity, and alkalinity shall be reported according to EPA-

821-R-02-013, October 2002 and shall be submitted as an attachment to the Discharge Monitoring Report (DMR).

This permit may be reopened to require further WET testing studies, Toxicity Reduction Evaluation (TRE) and/or effluent limits if WET testing data submitted to the Division shows toxicity in the permittee's discharge. Modification or revocation of this permit is subject to the provisions of 40 C.F.R. § 122.62, as adopted by reference in APC&EC Rule 6. Increased or intensified toxicity testing may also be required in accordance with Section 308 of the Clean Water Act and Section 8-4-201 of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

Administrative Records

The permittee has only conducted Acute WET tests at Outfall 001. Therefore, there are no administrative records for Chronic WET testing at this outfall.

Outfall 007

Chronic WET testing is appropriate for this outfall since the critical dilution is less than 100:1.

The calculations for dilution used for the chronic WET testing are as follows:

Critical Dilution (CD) = (Qd / (Qd + Qb)) × 100

Qd = 7% of background flow (permit limit)
Background flow = 1 cfs, only for the purpose of calculating the critical dilution since HCR conditions are applicable at Outfall 007
Qb = 0.67 X 1 cfs = 0.67
CD = ((0.07) / (0.07 + 0.67)) X 100 = 9.5%

Toxicity tests shall be performed in accordance with protocols described in "Methods for Measuring the Acute Toxicity of Effluent to Freshwater and Marine Organisms", EPA/600/4-90/027. A minimum of five effluent dilutions in addition to an appropriate control (0%) are to be used in the toxicity tests. These additional effluent concentrations are 4.0%, 5.3%, 7.1%, 9.5%, and 12.7% (See the CPP). The low-flow effluent concentration (critical dilution) is defined as 9.5% effluent. The requirement for acute WET tests is based on the magnitude of the facility's discharge with respect to receiving stream flow. The stipulated test species *Daphnia pulex* and the Fathead minnow (*Pimephales promelas*) are representative of organisms indigenous to the geographic area of the facility; the use of these is consistent with the requirements of the State water quality standards. The WET testing frequency has been established to provide data representative of the toxic potential of the facility's discharge, in accordance with the regulations promulgated at 40 C.F.R. § 122.48.

Results of all dilutions as well as the associated chemical monitoring of pH, temperature, hardness, dissolved oxygen, conductivity, and alkalinity shall be reported according to EPA-

821-R-02-012, October 2002 and shall be submitted as an attachment to the Discharge Monitoring Report (DMR).

This permit may be reopened to require further WET testing studies, Toxicity Reduction Evaluation (TRE) and/or effluent limits if WET testing data submitted to the Division shows toxicity in the permittee's discharge. Modification or revocation of this permit is subject to the provisions of 40 C.F.R. § 122.62, as adopted by reference in APC&EC Rule 6. Increased or intensified toxicity testing may also be required in accordance with Section 308 of the Clean Water Act and Section 8-4-201 of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

Administrative Records

As the previous permit contained Acute WET testing requirements at this outfall, there are no administrative records available.

Outfall 010 – Chronic WET Limits

Section 101(a)(3) of the Clean Water Act states that ".....it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited....." To ensure that the CWA's prohibitions for toxics are met, EPA has issued a "Policy for the Development of Water Quality-Based Permit Limitations for Toxic Pollutants (49 FR 9016-9019, 3/9/84)." In support of the national policy, Region 6 adopted the "Policy for Post Third Round NPDES Permitting" and the "Post Third Round NPDES Permit Implementation Strategy" on October 1, 1992. In addition, DEQ is required under 40 C.F.R. § 122.44(d)(1), adopted by reference in Rule 6, to include conditions as necessary to achieve water quality standards as established under Section 303 of the Clean Water Act.

The Regional policy and strategy are designed to ensure that no source will be allowed to discharge any wastewater which (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical State Water Quality Standard (WQS) resulting in non-conformance with the provisions of 40 C.F.R. § 122.44(d); (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation which threatens human health.

Whole effluent toxicity (WET) testing has been established for assessing and protecting against impacts upon water quality and designated uses caused by the aggregate toxic effect of the discharge of pollutants. The stipulated test species, which are appropriate to measure whole effluent toxicity, are consistent with the requirements of the State Water Quality Standards. The WET testing frequency has been established to reflect the likelihood of ambient toxicity and to provide data representative of the toxic potential of the facility's discharge, in accordance with the regulations promulgated at 40 C.F.R. § 122.48.

Implementation

Arkansas has established a narrative water quality standard under the authority of Section 303 of the CWA which states "toxic materials shall not be present in receiving waters in such quantities as to be toxic to human, animal, plant or aquatic life or to interfere with the normal propagation, growth and survival of aquatic biota."

Whole effluent toxicity testing conducted by the permittee has shown potential ambient toxicity to be the result of the permittee's discharge to the receiving stream or waterbody, at the appropriate instream critical dilution. Pursuant to 40 C.F.R. § 122.44(d)(1)(v), DEQ has determined from the permittee's self-reporting that the discharge from this facility does have the reasonable potential to cause, or contribute to an instream excursion above the narrative standard within the applicable State Water Quality Standards, in violation of Section 101(a)(3) of the Clean Water Act. Therefore, the permit must establish effluent limitations for lethality and sub-lethality following Regulations promulgated by 40 C.F.R. § 122.44(d)(1)(v). These effluent limitations for lethality and sub-lethality (7-day NOEC) are applied at Outfall 010 on the effective date of the permit. For Outfall 010, the 7-day NOEC value for lethality shall not be less than 100% (Critical Dilution) effluent and the sub-lethality 7-day NOEC value shall not be less than 80% (Critical Dilution).WET testing of the effluent is thereby required as a condition of this permit to assess potential toxicity. The WET testing procedures stipulated as a condition of this permit are as follows:

TOXICITY TESTS	**FREQUENCY**
Chronic WET	Once/quarter

Requirements for measurement frequency are based on the CPP.

Since 7Q10 is less than 100 cfs (ft^3/sec), chronic WET testing requirements will be included in the permit.

Since the 7Q10 is 0 cfs, the critical dilution is 100%.

Toxicity tests shall be performed in accordance with protocols described in "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms", EPA/600/4-91/002, July 1994. A minimum of five effluent dilutions in addition to an appropriate control (0%) are to be used in the toxicity tests. These additional effluent concentrations are 32%, 45%, 56%, 80%, and 100% (See the CPP). The low-flow effluent concentration (critical dilution) is defined as 100% effluent. The requirement for chronic WET tests is based on the magnitude of the facility's discharge with respect to receiving stream flow. The stipulated test species, *Ceriodaphnia dubia* and the Fathead minnow (*Pimephales promelas*) are representative of organisms indigenous to the geographic area of the facility; the use of these is consistent with the requirements of the State water quality standards. The WET testing frequency has been established to provide data representative of the toxic potential of the facility's discharge, in accordance with the regulations promulgated at 40 C.F.R. § 122.48.

Results of all dilutions as well as the associated chemical monitoring of pH, temperature, hardness, dissolved oxygen conductivity, and alkalinity shall be reported according to EPA-821-R-02-013, October 2002 and shall be submitted as an attachment to the Discharge Monitoring Report (DMR).

This permit may be reopened to require further WET testing studies, Toxicity Reduction Evaluation (TRE) and/or effluent limits if WET testing data submitted to the Division shows toxicity in the permittee's discharge. Modification or revocation of this permit is subject to the provisions of 40 C.F.R. § 122.62, as adopted by reference in APC&EC Rule 6. Increased or intensified toxicity testing may also be required in accordance with Section 308 of the Clean Water Act and Section 8- 4-201 of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

Administrative Records

There are no administrative records for Outfall 010. The requirements from Outfall 009 in the previous permit are being used for Outfall 010 in this renewal permit because the Outfall 010 effluent was previously discharged through Outfall 009 and will no longer contain the stormwater discharged through Outfall 009.

Permit Number:	AR0037800	AFIN:	70-00098	Outfall Number:	010
Date of Review:	12/012021	Reviewer:	T.Cochran		
Facility Name:	Clean Harbors - El Dorado				
Previous Dilution series:	32, 42, 56, 80, 100	Proposed Dilution Series:	32, 42, 56, 80, 100		
Previous Critical Dilution:	100	Proposed Critical Dilution:	100		
Previous TRE activities:	None				

Frequency recommendation by species

Pimephales promelas (Fathead minnow):	once per quarter
Ceriodaphnia dubia (water flea):	once per quarter

TEST DATA SUMMARY

	Vertebrate (*Pimephales promelas*)		Invertebrate (*Ceriodaphnia dubia*)	
TEST DATE	Lethal	Sub-Lethal	Lethal	Sub-Lethal
	NOEC	NOEC	NOEC	NOEC
3/31/2021	100	100	100	100
12/31/2020	100	100	100	**80**
9/30/2020	100	100	100	100
6/30/2020	100	100	100	100
3/31/2020	100	100	100	**80**
12/31/2019	100	100	100	100
9/30/2019	100	100	100	100
6/30/2019	100	100	100	**80**
12/31/2018	100	100	100	100
9/30/2018	100	100	100	100
6/30/2018	100	100	100	100
12/31/2017	100	100	100	100
9/30/2017	100	100	100	100
6/30/2017	100	100	100	100
6/30/2017	100	100	100	100
12/31/2016	100	100	100	100
9/30/2016	100	100	100	100
3/31/2016	100	100	100	100

Failures noted in BOLD

REASONABLE POTENTIAL CALCULATIONS

	Vertebrate Lethal	**Vertebrate Sub-lethal**	**Invertebrate Lethal**	**Invertebrate Sub-Lethal**
Min NOEC Observed	100	100	100	80
TU at Min Observed	1.00	1.00	1.00	1.25
Count	18	18	18	18
Failure Count	0	0	0	3
Mean	1.000	1.000	1.000	1.042
Std. Dev.	0.000	0.000	0.000	0.096
CV	0	0	0	0.1
RPMF	0	0	0	1.1
Reasonable Potential	0.000	0.000	0.000	1.375
100/Critical dilution	1.000	1.000	1.000	1.000
Does Reasonable Potential Exist	No	No	No	Yes

PERMIT ACTION

P. promelas Chronic - Carry forward existing limits of Lethal not <100% and sub-lethal not <80%
C. dubia Chronic - Carry forward existing limits of Lethal not <100% and sub-lethal not <80%

Additional requirements (including WET Limits) rationale/comments concerning permitting:

13. STORMWATER REQUIREMENTS

Prior to issuance of this renewal permit, all stormwater associated with industrial activity was discharged through an outfall permitted under NPDES Permit No. AR0037800. With the changes outlined in Item No. 4 of this Fact Sheet, the permittee obtained coverage under the general permit for stormwater runoff associated with industrial activity. The permit tracking number is ARR001968.

14. SAMPLE TYPE AND FREQUENCY

Requirements for sample type and sampling frequency for parameters already in the permit at Outfalls 001 and 007 have been based on the previous discharge permit.

Outfall 001

The sample type and sampling frequency for TSS have been set at grab and once per month as that will provide sufficient data in the event that a TMDL is finalized for the receiving stream. The sample type for Lead and Zinc at Outfall 001 has been set as grab since the discharge in highly unlikely to be of sufficient duration to obtain composite samples. as is typically done for metals. The sampling frequency has been set at once per month due to the infrequent nature of the discharges from this outfall.

Outfall 007

The sample type and sampling frequency for TSS have been set at grab and once per month as that will provide sufficient data in the event that a TMDL is finalized for the receiving stream.

Outfall 010

Requirements for sample type and sampling frequency at Outfall 010 have been based on the requirements for Outfall 009 in the previous permit and on requirements for other parameters in the permit at Outfalls 001 and 007.

The sampling frequency for Total Recoverable Arsenic is what is required by Appendix D of the CPP. The sampling frequency for Total Recoverable Mercury is what is required for other metals at this outfall. The sample type for Total Recoverable Arsenic and Total Recoverable Mercury is what is required for other metals at this outfall.

Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
Outfall 001				
Flow	once/day	totalizing meter	once/day	totalizing meter
TSS	N/A	N/A	once/month	grab
TOC	once/month	grab	once/month	grab
Total Rec. Arsenic	N/A	N/A	once/quarter	grab
Total Rec. Lead	N/A	N/A	once/quarter	grab
Total Rec. Mercury	N/A	N/A	once/quarter	grab
Total Rec. Silver	N/A	N/A	once/quarter	grab
Total Rec. Thallium	N/A	N/A	once/quarter	grab
Total Rec. Zinc	N/A	N/A	once/month	grab
pH	once/month	grab	once/month	grab

Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
Chronic WET Testing	once/quarter[1]	24-hr composite[1]	once/month	composite
Outfall 007				
Flow	once/day	totalizing meter	once/day	totalizing meter
Upstream Flow	once/day	weir/calculated	once/day	weir/calculated
Flow as % of Upstream Flow	once/day	calculated	once/day	calculated
TSS	N/A	N/A	once/month	grab
TOC	once/week	grab	once/week	grab
O & G	once/week	grab	once/week	grab
Chlorides	once/month	grab	once/month	grab
Sulfates	once/month	grab	once/month	grab
TDS	once/month	grab	once/month	grab
1,2-Dichloroethane	once/month	grab	once/month	grab
Dichloromethane	once/month	grab	once/month	grab
Total Rec. Lead	once/month	grab	once/month	grab
Total Rec. Mercury	once/month	grab	once/month	grab
Total Rec. Zinc	once/month	grab	once/month	grab
Total Rec. Arsenic	once/quarter[2]	grab[2]	once/quarter[2]	grab[2]
pH	once/month	grab	once/month	grab
Chronic WET Testing	once/quarter[1]	24-hr composite[1]	once/month	composite
Outfall 010				
Flow	once/day	instantaneous	once/day	instantaneous
TSS	N/A	N/A	once/month	grab
TOC	once/week	grab	once/week	grab
O & G	once/week	grab	once/week	grab
Chlorides	once/week	grab	once/week	grab
Sulfates	once/quarter	grab	once/quarter	grab
TDS	once/week	grab	once/week	grab
Temperature	twice/week	grab	twice/week	grab
1,2-Dichloroethane	once/quarter	composite	once/quarter	composite
Dichloromethane	once/quarter	composite	once/quarter	composite
Total Rec. Arsenic	N/A	N/A	once/quarter[2]	composite[2]
Total Rec. Mercury	N/A	N/A	once/quarter	composite
Total Rec. Lead	once/quarter	composite	once/quarter	composite
Total Rec. Selenium	once/quarter	composite	once/quarter	composite

Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
Total Rec. Zinc	once/quarter	composite	once/quarter	composite
pH	once/month	grab	once/month	grab
Chronic WET Limits	once/quarter	24-hr composite	once/month	composite

[1] Acute WET testing in previous permit.
[2] Monitoring was/is only required for the first four quarters of the permit.

15. PERMIT COMPLIANCE SCHEDULE

A schedule of compliance has been added to the permit for Mercury at Outfall 010. This parameter is being included in the permit for the first time and the permittee has not demonstrated that they are able to meet the new limits on a consistent basis. Therefore, the OWQ is exercising the authority allowed under Rule 2.104 to allow the permittee three years to come into compliance with the new limits.

It is recognized that Outfall 010 is a new outfall. However, the effluent is from a wastestream which was previously discharged through Outfall 009. Since the only change is the location of the discharge, a schedule of compliance is allowable for this outfall.

16. 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.

17. SOURCES

The following sources were used to draft the permit:

A. Application No. AR0037800 received March 31, 2021. Additional technical information was submitted by October 19, 2021.
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. Discharge permit file AR0037800.
G. Discharge Monitoring Reports (DMRs).
H. "2018 Integrated Water Quality Monitoring and Assessment Report," DEQ.
I. "2018 List of Impaired Waterbodies (303(d) List)," DEQ, May 2020.
J. *TMDLs for Segments Listed for Mercury in Fish Tissue for the Ouachita River Basin, and Bayou Bartholomew, Arkansas and Louisiana to Columbia* dated December 18, 2002.
K. Continuing Planning Process (CPP).
L. Technical Support Document for Water Quality-based Toxic Control.
M. Inspection Report dated December 9, 2020.

N. Compliance Review Memo from Myrl Lawrence to Loretta Carstens, P.E. dated July 29, 2021.
O. Planning Review Memo dated July 26, 2021.
P. NPDES Permit Rating Spreadsheet (MRAT) dated September 2, 2021.
Q. Discharge permit file ARR001968.
R. Comment letter from Denise Matthews to Loretta Carstens, P.E., dated May 11, 2023.

18. PUBLIC NOTICE

The public notice of the draft permit was published for public comment on April 16, 2023. The last day of the comment period was thirty (30) days after the publication date.

The permittee was the only party to submit comments on the draft permit. A summary of the comments received by the DEQ during the public comment period and responses to the comments are included with this permit decision.

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.

19. PERMIT FEE

In accordance with Rule 9.403(A)(1)(b), the annual fee for the permit is $15,000 and the fee code is J.

20. POINT OF CONTACT

For additional information, contact:

Loretta Carstens, P.E.
Permits Branch, Office of Water Quality
Division of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317
Telephone: (501) 682-0612

RESPONSE TO COMMENTS
FINAL PERMITTING DECISION

Permit No.: AR003780

Applicant: Clean Harbors El Dorado, LLC

Prepared by: Loretta Carstens, P.E.

The following are responses to comments received by the Division of Environmental Quality (DEQ) regarding the draft permit number referenced above and are developed in accordance with regulations promulgated at 40 C.F.R. §124.17, Arkansas Pollution Control & Ecology Commission (APC&EC) Rule 8 (Administrative Procedures), and Arkansas Code Annotated (A.C.A.) §8-4-203(e)(2).

Introduction

The above permit was submitted for public comment on April 16, 2023. The public comment period ended on May 16, 2023. The permittee was the only party to submit comments on the draft permit during the public comment period. This document contains a summary of those comments and the DEQ's responses.

Comment 1

The permittee requested that the footnote referencing the statement that Total Recoverable Arsenic testing (at all outfalls) and Total Recoverable Thallium testing at Outfall 001 is only required for the first four quarters of the permit be located in the same column at each outfall.

Response 1

The change will be made as requested. The footnote reference in the limits tables will be in the monitoring frequency column.

Comment 2

The permittee requested that the chronic WET testing requirements for Outfalls 001 and 007 be replaced with acute WET testing requirements as in the previous permit. The permittee acknowledges in their comment that chronic WET testing is required under the 2000 CPP but states that the previous permit acknowledges that acute testing is more appropriate due to the short, infrequent nature of the discharges from Outfalls 001 and 007. There have been no changes to the CPP requirements or changes in frequency which would justify the change from acute to chronic WET testing. Although not in effect, the 2020 draft CPP supports using acute WET testing for discharge of this type.

Response 2

DEQ is in continued discussion with EPA regarding the draft CPP, and this topic is included among others. The change from acute to chronic WET testing was made based on the CPP currently in effect and Section 3.3.3 of the Technical Support Document for Water-quality Based Toxic Control (TSD). EPA Region VI requires DEQ to follow the procedures set forth in the CPP. Chronic WET testing requirements were placed in the permit for Outfalls 001 and 007 based on the stream flow being less than 100 cfs and the dilution ratio being less than 100:1. As stated in the TSD, "EPA recommends that

a discharger conduct chronic toxicity testing if the dilution of the effluent falls below 100:1 at the edge of the mixing zone. The rationale for this recommendation is that chronic toxicity has been observed in some effluents down to the 1.0 percent effluent concentration. Therefore, chronic toxicity tests should be used directly in order to make decisions about toxic impact". Procedures are in place to allow for completion of a chronic WET test in the event that not all samples can be collected due to the discharge stopping. See the final permit, Part II.9.B.iv.e.