

**SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT  
AND NATURAL RESOURCES**

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

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

*the City of Clark*

is authorized under this permit to discharge to

*the unnamed tributary of the unnamed wetland that drains to Antelope Lake and Indian Springs Lake*

from its wastewater treatment facility located east of the city in the Southeast ¼ of the Northwest ¼ of Section 7, Township 116 North, Range 57 West, in Clark County, South Dakota (Latitude 44.872411°, Longitude -97.725674°), in accordance with discharge points, effluent limits, monitoring requirements, and other conditions set forth herein. Authorization is limited to those outfalls specifically listed in the permit. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the South Dakota Water Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

This permit shall become effective [DATE].

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

Signed this     day of     ,

\_\_\_\_\_  
Authorized Permitting Official

**Steven M. Pirner**  
Secretary  
Department of Environment and Natural Resources

**DRAFT**

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## 1.0 DEFINITIONS

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

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

**“ARSD”** means the Administrative Rules of South Dakota.

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

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

**“BOD<sub>5</sub>”** means Five-Day Biochemical Oxygen Demand. BOD is a measurement of the amount of oxygen utilized by the decomposition of organic material, over a specified time period (usually 5 days) in a sample.

A **“Bypass”** is the intentional diversion of waste streams from any portion of a treatment facility. Bypasses do not include releases from the sanitary sewer collection system (see **“Sanitary Sewer Overflow”**) or emergency releases from the treatment facility (see **“Emergency Discharge”**). Bypasses may result in a discharge or unauthorized release.

**“Composite Samples”** shall be flow proportioned. The composite sample shall contain at least four samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:

1. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
2. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
3. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every “X” gallons of flow); and,

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

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

**“DMR”** means Discharge Monitoring Report, EPA Form 3320-1, or a report filed electronically by an EPA-approved electronic system, which is used to report sampling data.

An **“Emergency Discharge”** is a discharge from the lower end of the treatment or containment system through a release structure or over or through retention dikes. An emergency discharge is distinguished from a sanitary sewer overflow in that a sanitary sewer overflow discharges wastewater prior to reaching the treatment or containment system.

**“EPA”** or **“US EPA”** means United States Environmental Protection Agency.

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

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

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

**“MGD”** is the measure of flow rate meaning million gallons per day.

**“pH”** is the measure of the hydrogen ion concentration of water or wastewater; expressed as the negative log of the hydrogen ion concentration. A pH of 7 is neutral. A pH less than 7 is acidic, and a pH greater than 7 is basic.

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

A **“Sanitary Sewer Overflow”** or **“SSO”** is the intentional or unintentional discharge of untreated sewage from the sanitary sewer collection system, including sewer lines, manholes, lift stations, etc.

**“SDDENR”** means the South Dakota Department of Environment and Natural Resources.

**“Secretary”** means the Secretary of the South Dakota Department of Environment and Natural Resources, or authorized representative.

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

resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

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

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

1. Is subject to Categorical Pretreatment Standards under ARSD Chapter 74:52:10 (a.b.r. 40 CFR 403.6 and 40 CFR chapter I, subchapter N);
2. Discharge an average of 25,000 gallons per day or more of process wastewater to the publicly owned treatment works (excluding sanitary, non-contact cooling water, and boiler blowdown wastewater);
3. Contributes a process wastewater that makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works; or,
4. Is designated as such by the Secretary on the basis that the Industrial User has a reasonable potential for adversely affecting the publicly owned treatment works or for violating any pretreatment standard or requirement.

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

An **“Unauthorized release”** is a discharge from the lower end of the treatment or containment system through a release structure or over or through retention dikes that does not meet all permit conditions or effluent limits. An unauthorized release is distinguished from a sanitary sewer overflow in that a sanitary sewer overflow discharges wastewater prior to treatment or containment.

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

## **2.0 PERMIT COVERAGE**

### **2.1 Permit Transfers**

1. Coverage under this permit may be transferred to a new permittee if:
  - a. The signatory authority notifies the Secretary at least 30 days in advance of the proposed transfer date;
  - b. The notice includes a written agreement between the existing and new permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
  - c. The new permittee submits a Certification of Applicant form certifying the new permittee is qualified to perform the obligations of a permit holder in accordance with South Dakota Codified Law 1-40-27.
2. The Secretary will notify the existing and new permittee of his or her intent to transfer, modify, or revoke and reissue the permit based on the information received and other permit information.

### **2.2 Reopener Provisions**

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limits (and compliance schedules, if necessary), or other appropriate requirements if one or more of the following events occurs:

1. **Water Quality Standards:** The water quality standards of the receiving waters applicable to this permit are modified in such a manner as to require different effluent limits than contained in this permit;
2. **Water Quality Management Plan:** A revision to the current water quality management plan is approved and adopted that calls for different effluent limits than contained in this permit;
3. **Effluent Guidelines:** Effluent limit guidelines are promulgated or revised for point sources covered by this permit;
4. **Total Maximum Daily Load:** Additional controls in the permit are necessary to implement a total maximum daily load approved by the Secretary and/or EPA;
5. **Noncompliance:** The discharger is a significant contributor of pollution to waters of the state, presents a health hazard, or is in noncompliance with the conditions of the permit;
6. **Whole Effluent Toxicity:** Whole effluent toxicity is detected in the discharge;
7. **Pretreatment Program:** The permittee is required to develop and implement a pretreatment program, regulating indirect discharges of wastewater into its publicly owned treatment works; or

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

### **2.3 Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee must apply for and obtain coverage under a new permit. The permit application must be submitted at least 180 days before the expiration date of this permit. Periodically during the term of this permit and at the time of reissuance, the permittee may be requested to reaffirm its eligibility to discharge under this permit.

### **2.4 Continuation of the Expired Permit**

An expired permit continues in full force and effect until a new permit is issued. If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee must submit an application at least 180 days before the expiration date of the permit.

### **2.5 Property Rights**

1. The Secretary's issuance of this permit, adoption of design criteria, and approval of plans and specifications, does not convey any property rights of any sort, any exclusive privileges, any authorization to damage, injure or use any private property, any authority to invade personal rights, any authority to violate federal, state or local laws or regulations, or any taking, condemnation or use of eminent domain against any property owned by third parties.
2. The State does not warrant that the permittee's compliance with this permit, design criteria, approved plans and specifications, and operation under this permit, will not cause damage, injury or use of private property, an invasion of personal rights, or violation of federal, state or local laws or regulations. The permittee is solely and severably liable for all damage, injury or use of private property, invasion of personal rights, infringement of federal, state or local laws and regulations, or taking or condemnation of property owned by third parties, that may result from actions taken under the permit.

### **2.6 Permit Actions**

The Secretary may modify, revoke and reissue, or terminate coverage under this permit for cause, including failure to comply with any provision of this permit or any condition imposed by the Secretary upon granting coverage under this permit. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

## **2.7 Severability**

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

### 3.0 EFFLUENT LIMITS

#### 3.1 Description of Discharge Points

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under this permit is a violation of the South Dakota Water Pollution Control Act and could subject the person(s) responsible for such discharge to penalties under Section 34A-2-75 of the Act. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge within a reasonable time from the permittee first learning of an unauthorized discharge could subject the permittee to penalties as provided under the South Dakota Water Pollution Control Act.

##### **Outfall**

<b>Number</b>	<b>Description of Discharge Points</b>
001	Any discharge from the city of Clark wastewater treatment facility to the unnamed tributary (Latitude 44.862575°, Longitude -97.725325°).

#### 3.2 Emergency Discharges and Sanitary Sewer Overflows

1. Discharges of wastewater are prohibited from locations other than the discharge points described in **Section 3.1 – Description of Discharge Points** and the Secretary may take enforcement action against a permittee, unless the discharge or sanitary sewer overflow is an emergency and meets each of the following conditions:
  - a. The emergency discharge or sanitary sewer overflow was unavoidable to prevent loss of life, threat to public health, personal injury, or severe property damage;
  - b. There were no feasible alternatives to the emergency discharge or sanitary sewer overflow, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment or proper operation and maintenance to prevent an emergency release that occurred during normal periods of equipment downtime or preventive maintenance; and,
  - c. The permittee submitted notices as required under **Section 4.7 – Emergency Discharge Reporting Requirements**.
2. If an emergency discharge, sanitary sewer overflow, or other discharge occurs or is expected to occur, the permittee shall take the appropriate measures to minimize the discharge of pollutants. Such measures may include the closing of facilities that contribute wastewater to the sewer system until the discharge is terminated.

3. Any emergency discharge or sanitary sewer overflow that meets the conditions of paragraph 1 above shall be reported as soon as possible (but in no case more than 24 hours after becoming aware of the circumstances) in accordance with the provisions in **Section 4.7 – Emergency Discharge Reporting Requirements**. The report shall be made to the Secretary at (605) 773-3351 during regular business hours (8:00 a.m. – 5:00 p.m. Central Time) or to the South Dakota Emergency Management at (605) 773-3231 any other time.

### **3.3 Proper Operation and Maintenance**

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

1. This may include the maintenance of freeboard levels of lagoons or holding ponds.
2. Proper operation and maintenance may also include adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

### **3.4 Construction Schedule**

The permittee shall achieve compliance with the effluent limits specified for discharges in accordance with the following schedule:

1. The city shall conduct a study to determine the steps they will take to either move the outfall to a different location or to operate as a total retention facility. The study shall be submitted to SDDENR by **April 1, 2013**.
2. Submit plans and specifications for any recommended construction to SDDENR for review and approval by **October 1, 2013**. The plans and specifications must be developed by a Professional Engineer, licensed to practice in South Dakota. If the city's engineer determines construction is not necessary, the engineer shall submit a letter to SDDENR on the city's behalf detailing the rationale for this decision and any steps the city will be taking to eliminate the discharge by **October 1, 2013**.
3. Starting **April 1, 2014**, submit quarterly updates to SDDENR detailing the progress of construction.
4. Begin construction, if necessary, by **July 1, 2014**.
5. Complete construction by **March 31, 2017**.
6. The city shall cease its discharge to Antelope Lake and Indian Springs Lake by **April 1, 2017**.

The milestones must be completed by the date specified. **The permittee shall submit to the Secretary a written notice of compliance or noncompliance with each milestone by the date specified above.** If the permittee is not in compliance with the milestone, the

notice shall include the cause of any noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

### 3.5 Interim Effluent Limits

Effective immediately and lasting through **March 30, 2017**, the quality of effluent discharged by the facility shall, as a minimum, meet the limits as set forth below:

Effluent Characteristic	Effluent Limit	
	30-Day Average <sup>1</sup>	7-Day Average <sup>1</sup>
Five-Day Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L	30	45
Total Suspended Solids (TSS), mg/L	30	45
The pH of the discharge shall not be less than 6.0 standard units or greater than 9.0 standard units in any sample.		
Percentage Removal Requirements (BOD <sub>5</sub> and TSS, Limit): In addition to the concentration limit on BOD <sub>5</sub> and TSS, indicated above, the arithmetic mean of BOD <sub>5</sub> and total suspended solids for effluent samples collected in a period of thirty (30) consecutive days shall not exceed fifteen (15) percent of the arithmetic mean of the concentration for the influent samples collected at approximately the same times during the same period (85 percent removal).		
No chemicals, such as chlorine, shall be used without prior written permission.		

<sup>1</sup> See Definitions.

### 3.6 Final Effluent Limits

Effective **March 31, 2017** and lasting through the life of the permit, there shall be **no discharge** from this facility.

### 3.7 Inspection Requirements

The permittee shall inspect its wastewater treatment facility, outfall structures, and lift stations regularly as outlined below. The inspection shall be performed to determine if proper operation and maintenance procedures are being undertaken at the wastewater treatment facility and lift stations. The permittee shall maintain a notebook recording information obtained during the inspection.

1. **Facility Inspections.** The permittee shall inspect the facility and discharge location at least **five times per week**. At a minimum, the notebook shall include the following:
  - a. Date and time of the inspection;
  - b. Name of the inspector(s);
  - c. The facility's discharge status;
  - d. Identification of operational problems and/or maintenance problems;
  - e. Recommendations, as appropriate, to remedy identified problems;
  - f. A brief description of any actions taken with regard to problems identified; and,
  - g. Other information, as appropriate.
  
2. **Lift Station Inspections.** The permittee shall inspect each lift station on at least a **weekly** basis. The inspection shall be performed to determine if proper operation and maintenance procedures are being undertaken and verify no sanitary sewer overflows are occurring or have occurred. During any sanitary overflow, the lift stations shall be inspected on a **daily** basis. At a minimum, the notebook shall include the following for each lift station:
  - a. Date and time of the inspection;
  - b. Name of the inspector(s);
  - c. Whether a sanitary sewer overflow is occurring or has occurred;
  - d. Identification of operational problems and/or maintenance problems;
  - e. Cleaning of screenings, if applicable;
  - f. Testing of alarms, if applicable;
  - g. Hour meter readings;
  - h. Recommendations, as appropriate, to remedy identified problems;
  - i. A brief description of any actions taken with regard to problems identified; and,
  - j. Other information, as appropriate.

3. The permittee shall maintain the notebook(s) for the facility and each lift station in accordance with proper record-keeping procedures and shall make the notebook(s) available for inspection, upon request, by the Secretary or the US EPA.

### **3.8 Capacity, Management, Operation, and Maintenance**

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

1. Sewer management program: This program includes personnel organizational structure, training, communication information systems, noncompliance notification program, and other appropriate items;
2. Collection system operation program: This program includes operational budgeting, monitoring, safety, emergency preparedness and response, pump stations, operational recordkeeping, and other appropriate items;
3. Collection system maintenance program: This program includes maintenance budgeting, planned and unplanned maintenance; sewer cleaning; maintenance recordkeeping, parts and equipment inventory, and other appropriate items; and
4. Sewer system capacity evaluation: The capacity evaluation includes the following:
  - a. System inventory (sewer locations, sizes, slopes, materials, age, condition, etc.);
  - b. Identification of problem areas (overflows, surcharged lines, basement backups, etc.);
  - c. Capacity evaluation of problem areas (utilizing flow and precipitation records, infiltration and inflow investigation, manhole and pipe inspections and televising, smoke and dye testing, and building inspections); and
  - d. Sewer rehabilitation recommendations.
5. Timelines: This program shall identify timelines and specific dates for completing any identified changes or improvements.
6. SDDENR Approval: The permittee shall submit the program to SDDENR for approval. Upon approval, the permittee shall implement the program.

## 4.0 MONITORING, RECORD KEEPING, & REPORTING REQUIREMENTS

### 4.1 Self-Monitoring Requirements – Interim

Effective immediately and lasting until **March 30, 2017**, all authorized discharges, sanitary sewer overflows, and emergency discharges shall be monitored for the following parameters at the frequency and with the type of measurement indicated. Knowingly discharging or failing to report a discharge within a reasonable time from the permittee first learning of a discharge could subject the permittee to penalties as provided under the South Dakota Water Pollution Control Act. The permittee shall report the monitoring results in accordance with **Section 4.5 – Reporting of Monitoring Results**.

Effluent Characteristic	Frequency	Reporting Values <sup>1</sup>	Sample Type <sup>1</sup>
Total Flow, million gallons	Monthly	Monthly Total	Calculate
Flow Rate, MGD	Once Every Two Weeks <sup>2</sup>	Daily Maximum; 30-Day Average	Continuous
pH, standard units	Once Every Two Weeks <sup>2</sup>	Daily Minimum; Daily Maximum	Instantaneous <sup>3</sup>
Water Temperature, °C	Once Every Two Weeks <sup>2</sup>	Daily Maximum; 30-Day Average	Instantaneous <sup>4</sup>
Five-Day Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L (influent)	Once Every Two Weeks <sup>2</sup>	30-Day Average	Grab
Five-Day Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L (effluent)	Once Every Two Weeks <sup>2</sup>	Max 7-Day Average; 30-Day Average	Grab
Percent Removal - Biochemical Oxygen Demand (BOD)	Monthly	30-Day Average	Calculate
Total Suspended Solids (TSS), mg/L (influent)	Once Every Two Weeks <sup>2</sup>	30-Day Average	Grab
Total Suspended Solids (TSS), mg/L (effluent)	Once Every Two Weeks <sup>2</sup>	Max 7-Day Average; 30-Day Average	Grab
Percent Removal - Total Suspended Solids (TSS)	Monthly	30-Day Average	Calculate

<sup>1</sup> See Definitions.

<sup>2</sup> A minimum of one sample shall be taken every other week, with a minimum number of two (2) samples per calendar month. All samples collected during the 7-day or 30-day period shall be used in determining the averages. The permittee always has the option of collecting additional samples if appropriate.

<sup>3</sup> pH shall be taken within 15 minutes of sample collection with a pH meter. The pH meter must be capable of simultaneous calibration to two points on the pH scale that bracket the expected

pH and are approximately three standard units apart. The pH meter must read to 0.01 standard units and be equipped with temperature compensation adjustment. Readings shall be reported to the nearest 0.1 standard units.

- <sup>4</sup> The water temperature of the effluent shall be taken as a field measurement. Measurement shall be made with a mercury-filled, or dial type thermometer, or a thermistor. Readings shall be reported to the nearest whole degree Celsius.

#### 4.2 Self-Monitoring Requirements – Final

Effective **March 31, 2017**, and lasting through the life of the permit, there shall be **no discharge** from the city of Clark’s wastewater treatment facility to the unnamed tributary. Promptly upon discovery of an emergency bypass, sanitary sewer overflow, or other discharge, the discharge shall be monitored as shown below. Knowingly discharging or failing to report a discharge within a reasonable time from the permittee first learning of a discharge could subject the permittee to penalties as provided under the South Dakota Water Pollution Control Act. The permittee shall report the monitoring results in accordance with **Section 4.5 – Reporting of Monitoring Results**.

Effluent Characteristic	Frequency	Reporting Values <sup>1</sup>	Sample Type <sup>1</sup>
Flow Rate, MGD	At Least Three Per Discharge <sup>2</sup>	Actual Value	Continuous
pH, standard units	At Least Three Per Discharge <sup>2</sup>	Actual Value	Instantaneous <sup>3</sup>
Water Temperature, °C	At Least Three Per Discharge <sup>2</sup>	Actual Value	Instantaneous <sup>4</sup>
Five-Day Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L	At Least Three Per Discharge <sup>2</sup>	Actual Value	Grab
Total Suspended Solids (TSS), mg/L	At Least Three Per Discharge <sup>2</sup>	Actual Value	Grab
<i>Escherichia coli</i> (number/100 mL) <sup>5</sup>	At Least Three Per Discharge <sup>2</sup>	Actual Value	Grab
Total Phosphorus, mg/L	Monthly	Actual Value	Grab

<sup>1</sup> See Definitions.

<sup>2</sup> A minimum of three samples shall be taken during any discharge. A sample shall be taken at the beginning, middle, and end of the discharge if the discharge is less than one week in duration. If a single, continuous discharge is greater than one week in duration, three samples shall be taken the first week and one each following week. All of the samples collected during

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the 7-day or 30-day period are to be used in determining the averages. The permittee always has the option of collecting additional samples if appropriate.

- <sup>3</sup> The pH shall be taken within 15 minutes of sample collection with a pH meter. The pH meter must be capable of simultaneous calibration to two points on the pH scale that bracket the expected pH and are approximately three standard units apart. The pH meter must read to 0.01 standard units and be equipped with temperature compensation adjustment. Readings shall be reported to the nearest 0.1 standard units.
- <sup>4</sup> The water temperature of the effluent shall be taken as a field measurement. Measurement shall be made with a mercury-filled, or dial type thermometer, or a thermistor. Readings shall be reported to the nearest whole degree Celsius.
- <sup>5</sup> **Effective March 31, 2017 and lasting through the life of the permit, *E. coli* levels shall be monitored in the discharge. Samples are to be collected at the same time as BOD<sub>5</sub>, TSS, etc.**

#### **4.3 Monitoring Procedures**

1. Effluent samples taken in compliance with the monitoring requirements established under this permit shall be collected prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.
2. Monitoring shall be conducted according to test procedures approved under ARSD §74:52:03:06 (a.b.r. 40 CFR, Part 136), unless other test procedures have been specified in this permit or approved by the Secretary.

#### **4.4 Additional Monitoring by the Permittee**

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

#### **4.5 Reporting of Monitoring Results - Interim**

1. Effective immediately and lasting until **March 30, 2017**, effluent monitoring results obtained during the month shall be summarized, reported on separate Discharge Monitoring Report Forms (EPA No. 3320-1), and submitted to SDDENR on a **monthly** basis. These must be postmarked no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, “no discharge” shall be reported. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with **Section 4.10 – Signatory Requirements** and submitted to the Secretary at the following address:

Original:           South Dakota Department of Environment and Natural Resources  
                          Surface Water Quality Program  
                          PMB 2020

Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3182

copy to: US Environmental Protection Agency – Region VIII  
Planning and Targeting Program (ENF-PT)  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

2. In accordance with SDCL 1-40-39, the Secretary is authorized to accept a document with an electronic signature. SDDENR shall provide for the authenticity of each electronic signature by adhering to any standards established by the South Dakota Bureau of Information and Telecommunications pursuant to SDCL 53-12-47 and 53-12-50 or any other standards established by rules promulgated pursuant to SDCL Chapter 1-26.

#### **4.6 Reporting of Monitoring Results - Final**

1. Effective March 31, 2017, and lasting through the life of the permit, in the event of a discharge from the outfall, monitoring results shall be summarized and reported on a photocopy of the Emergency Discharge Monitoring Form located at the end of this permit. The summary form must be postmarked no later than the 28th day of the month following the discharge. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with **Section 4.10 – Signatory Requirements** and submitted to the Secretary at the following address:

South Dakota Department of Environment and Natural Resources  
Surface Water Quality Program  
PMB 2020  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3182

2. In accordance with SDCL 1-40-39, the Secretary is authorized to accept a document with an electronic signature. SDDENR shall provide for the authenticity of each electronic signature by adhering to any standards established by the South Dakota Bureau of Information and Telecommunications pursuant to SDCL 53-12-47 and 53-12-50 or any other standards established by rules promulgated pursuant to SDCL Chapter 1-26.

#### **4.7 Emergency Discharge Reporting Requirements**

1. The permittee shall report any emergency related to this permit or permitted facility that may endanger health or the environment as soon as possible, but no later than 24 hours after becoming aware of the circumstances as follows:

- a. During regular business hours (8:00 a.m. - 5:00 p.m. Central Time), the report shall be made at (605) 773-3351.
  - b. Outside of normal business hours, the permittee shall leave a message at 1-800-GET-DENR (1-800-438-3367).
2. Effluent discharges, sanitary sewer overflows, emergency discharges, upsets, and other unauthorized releases that do not meet the conditions of Paragraph 1 above shall be reported to the Secretary within 24 hours from the time the permittee becomes aware of the circumstances as follows:
- a. During regular business hours (8:00 a.m. - 5:00 p.m. Central Time), the report shall be made at (605) 773-3351.
  - b. Outside of normal business hours, the permittee shall leave a message at 1-800-GET-DENR (1-800-438-3367).
3. Anticipated overflows shall be reported to the Secretary in advance, if possible.
4. The Secretary may require the permittee to notify the general public or downstream users that could be or will be impacted by the emergency discharge.
- a. In making the decision to require public notification, the Secretary will consider the potential impacts as a result of the discharge, the downstream beneficial uses (such as drinking water or recreation), and the potential for public contact.
  - b. If required by the Secretary, the permittee shall notify the public and/or downstream users as soon as possible, but in no case more than 24 hours after the discharge begins.
5. In addition to verbal notification, the permittee shall submit to the Secretary a written report of the circumstances above using the Emergency Discharge Reporting Summary Form in Appendix A.
- a. Reports shall be submitted in accordance with **Section 4.5 – Reporting of Monitoring Results.**
  - b. The written submission shall contain:
    - i. A description of the event and its cause;
    - ii. The period of the event, including exact dates and times;
    - iii. Where the wastewater was discharged;
    - iv. The estimated time the event is expected to continue if it has not been corrected;
    - v. Any adverse effects, such as fish kills;
    - vi. If public notification was required, describe how the public was notified of the discharge; and
    - vii. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the event.

- c. The written report shall be submitted by the 28<sup>th</sup> day of the following month. The Secretary may require a written report to be submitted sooner or may require additional information if the discharge has the potential to impact human health or the environment.

#### **4.8 Bypass Reporting**

1. The permittee may allow anticipated bypasses to occur that do not result in a discharge and will not result in a violation of the effluent limits, but only if for essential maintenance to ensure efficient operation.
2. The permittee shall submit notice of bypass as follows:
  - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Secretary at least 10 days before the date of the bypass.
  - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass to the secretary at (605) 773-3351 by the first workday (8:00 a.m. – 5:00 p.m. Central Time) following the day the permittee became aware of the circumstances.

#### **4.9 Records Contents**

Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The initials or names of the individuals who performed the sampling or measurements;
3. The dates analyses were performed;
4. The time analyses were initiated;
5. The initials or names of individuals who performed the analyses;
6. References and written procedures, when available, for the analytical techniques or methods used; and,
7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

#### **4.10 Signatory Requirements**

1. All permit applications, reports or information submitted to the Secretary shall be signed and certified by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Secretary shall be signed by a person described in paragraph 1 of this section or

by a duly authorized representative of that person. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described above and submitted to the Secretary; and,
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of superintendent or equivalent responsibility, or an individual or position having overall responsibility for environmental matters. A duly authorized representative may be either a named individual or any individual occupying a named position.
3. If an authorization under paragraph 2 a. above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the Secretary.
  4. Any person signing a document under this section shall 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.*

#### **4.11 Retention of Records**

1. The permittee shall retain records of all monitoring information and other data required by this permit. This includes:
  - a. Data collected on site;
  - b. Copies of all Discharge Monitoring Report Forms;
  - c. A copy of the permit;
  - d. All calibration and maintenance records;
  - e. All original strip chart recordings for continuous monitoring instrumentation;
  - f. Copies of all other reports required by this permit; and
  - g. Records of all data used to complete the application for this permit.

2. This information must be retained for a period of at least **three years** from the date of the sample, measurement, report, or application. This period may be extended by request of the Secretary at any time. Data collected on site, copies of Discharge Monitoring Reports, and a copy of this permit must be maintained on site during the duration of the permitted activity.

#### **4.12 Availability of Reports**

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

#### **4.13 Duty to Provide Information**

1. The permittee shall furnish to the Secretary, within a reasonable time, any information the Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Secretary, upon request, copies of records required to be kept by this permit.
2. If the permittee becomes aware that it failed to submit any relevant facts in a permit application form, or submitted incorrect information in a permit application form or any report to the Secretary, it shall promptly submit such facts or information.

#### **4.14 Planned Changes**

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

## **5.0 COMPLIANCE REQUIREMENTS**

### **5.1 Duty to Comply**

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

### **5.2 Duty to Mitigate**

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

### **5.3 Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

### **5.4 Upset Conditions**

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limits if the requirements of Paragraph 2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limits).
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
  - b. The permitted facility was at the time being properly operated;
  - c. The permittee submitted notice of the upset as required under **Section 4.7 – Emergency Discharge Reporting Requirements**; and,
  - d. The permittee complied with mitigation measures required under **Section 5.2 – Duty to Mitigate**.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

## **5.5 Penalties for Violations of Permit Conditions**

Any person who violates a permit condition is in violation of the provisions of SDCL 34A-2-36, and is subject to penalties under SDCL 34A-2-75. In addition to a jail sentence authorized by SDCL 22-6-2, such violators are subject to a criminal fine not to exceed ten thousand dollars per day of violation. The violator is also subject to a civil penalty not to exceed ten thousand dollars per day of violation, or for damages to the environment of this state. Except as provided in **Section 5.4 – Upset Conditions**, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

## **5.6 Penalties for Falsification of Reports**

1. Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, is in violation of the provisions of SDCL 34A-2-77, and is subject to penalties under SDCL 34A-2-75.
2. Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit is in violation of the provisions of SDCL 34A-2-77, and is subject to penalties under SDCL 34A-2-75.
3. In addition to a jail sentence authorized by SDCL 22-6-2, such violators are subject to a criminal fine not to exceed ten thousand dollars per day of violation. The violator is also subject to a civil penalty not to exceed ten thousand dollars per day of violation, or for damages to the environment of this state.

## **5.7 Oil and Hazardous Substance Liability**

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

## **6.0 INDUSTRIAL WASTES**

### **6.1 Industrial Users**

1. During the life of the permit, the permittee shall conduct an industrial waste survey to identify the character and volume of pollutants from each significant industrial user, as well as documenting production data.
2. The permittee shall notify the Secretary of any new introductions by new or existing industrial users or any substantial change in pollutants from any industrial user. Such notice must contain the information described in paragraph 1 above and be submitted to the Secretary no later than 60 days following the introduction or change.
3. The permittee shall provide adequate notice to the Secretary of any substantial change in the volume or character of pollutants being introduced into the POTW by any other industrial users. For the purposes of this section, adequate notice shall include information on:
  - a. The quality and quantity of effluent to be introduced into the POTW; and,
  - b. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

### **6.2 Prohibited Discharges**

1. Under no circumstances shall the permittee allow the introduction of the following pollutants to the POTW from any source of nondomestic discharge:
  - a. Pollutants that create a fire or explosion hazard in the publicly owned treatment works, including but not limited to waste streams with a closed cup flashpoint of less than 60 degrees Celsius (140 degrees Fahrenheit) using the test methods specified in ARSD §74:28:22:01 (a.b.r. 40 CFR 261.21);
  - b. Pollutants that will cause corrosive structural damage to the Publicly owned treatment works (POTW), but in no case discharges with pH lower than 5.0 standard units nor greater than 12.5 standard units;
  - c. Solid or viscous pollutants in amounts that will cause obstruction to the flow in the POTW, or other interference with the operation of the POTW;
  - d. Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration that will cause interference with the POTW;
  - e. Heat in amounts that will inhibit biological activity in the POTW resulting in interference but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees Celsius (104 degrees Fahrenheit);

- f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
  - g. Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
  - h. Any trucked or hauled pollutants, except at discharge points designated by the POTW;
  - i. Any pollutant that causes pass through or interference; and,
  - j. In addition to the general limits expressed above, more specific pretreatment limits have been promulgated for specific industrial categories under Section 307 of the Federal Clean Water Act (see ARSD, Chapter 74:52:10, a.b.r. 40 CFR Subchapter N, Parts 405 through 471, for specific information).
2. The Secretary retains the right to take legal action against the industrial user and/or the permittee, in those cases where a permit violation has occurred because of the failure of an industrial user to discharge at an acceptable level.

## **7.0 ADDITIONAL PERMIT CONDITIONS**

### **7.1 Inspection and Entry**

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

1. Enter the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,
4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the South Dakota Water Pollution Control Act, any substances or parameters at any location.

### **7.2 Removed Substances**

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

# **APPENDIX A**

## **Emergency Discharge Monitoring Summary Form**

## EMERGENCY RELEASE REPORTING FORM

*This form is to be used to summarize the reporting requirements for any emergency discharge, sanitary sewer overflow, or unauthorized discharge from the permitted facility.*

<b>Address:</b>			
<b>Facility Contact:</b>		<b>Phone:</b>	
<b>Description of Event</b> <i>(Attach additional sheets if necessary)</i>			
<i>Please check the boxes below, as appropriate, to indicate the type of emergency release being reported (See Definitions for an explanation of each term).</i>			
<input type="checkbox"/> <b>Emergency Discharge</b> <input type="checkbox"/> <b>Sanitary Sewer Overflow</b> <input type="checkbox"/> <b>Unauthorized Release</b>			
<b>Date and Time the discharge began or was discovered:</b>			
<b>Date and Time the discharge was stopped:</b>			
<b>Describe the events resulting in the discharge and its cause(s):</b>			
<b>Where was the wastewater discharged:</b>			
<b>Describe the steps taken or planned to reduce, eliminate, and prevent reoccurrence:</b>			
<b>Time and Date 24-Hour Notice of Noncompliance given to SDDENR:</b>			
<b>Describe any adverse effects, such as fish kills, etc.:</b>			
<b>Duration of discharge (include dates and times):</b>			
<b>Total flow, million gallons:</b>			

## ANALYTICAL RESULTS

Parameter	Sample 1	Sample 2	Sample 3	Sample 4	Sample 5	Sample 6	Sample 7
Date and time of sample							
Flow Rate, million gallons per day							
pH, standard units							
Water Temperature, °C							
<i>Escherichia Coli</i> , no./100 mL							
Total Suspended Solids (TSS), mg/L							
Five-Day Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L							

*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.*

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_