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Authorization to Discharge Under the National Pollutant Discharge Elimination System (NPDES) General NPDES Permit Number NER160000 for Storm Water Discharges from Construction Sites to Waters of the State of Nebraska

This NPDES general permit is issued in compliance with the provisions of the Federal Water Pollution Control Act (33-U.S.C. Secs. 1251 *et. seq.* as amended to date), the Nebraska Environmental Protection Act (Neb. Rev. Stat. Secs. 81-1501 *et. seq.* as amended to date), and the Rules and Regulations promulgated pursuant to these Acts. Application may be made under this general permit are authorized to discharge storm water from construction sites. Owners or operators issued a discharge authorization under this general permit are required to comply with the limits, requirements, prohibitions, and conditions set forth herein. The issuance of a discharge authorized under this general permit does not relieve permittees of other duties and responsibilities under the Nebraska Environmental Protection Act, as amended, or established by regulations promulgated pursuant thereto.

NPDES Permit No.: NER160000
NDEQ ID No.: 995907
Effective Date: November 1, 2016
Expiration Date: October 31, 2021

Pursuant to a Delegation Memorandum dated August 22, 2016, and signed by the Director, the undersigned hereby executes this document on behalf of the Director.

Signed this 30th day of September, 2016

Shelley Schneider
Shelley Schneider
Water Permits Division Administrator



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Appendix A – Conditions Applicable to all NPDES Permits

Appendix B – List of MS4s in the State of Nebraska

*The first occurrence of terms are written in **BOLDFACE** and are defined in this permit in Part VII - Definitions*

Part I. Coverage Under this Permit

A. Introduction

This permit is required and shall apply to **storm water** or non-storm water discharges associated with **construction activity** that causes land disturbance of equal to or greater than one acre and less than one acre if the construction activity is part of a **common plan of development or sale**. All references in this permit to construction activity shall be read to include both **large construction activity** and **small construction activity**. This permit authorizes the discharge of storm water from **construction activity** entering **Waters of the State**, a **municipal separate storm sewer system (MS4)**, or a **combined sewer system (CSO)** within the State of Nebraska. Discharges are subject to the specific terms and conditions in this permit.

This permit also authorizes storm water discharges from any other construction activities designated by the **Director** because of concern that they may produce an excursion to water quality standards or contribute to a significant pollution discharge to Waters of the State. The Director may authorize permit coverage in these circumstances with the intent of reducing or eliminating storm water pollution from the construction activity by requiring implementation of effective pollution control measures or practices.

B. Permit Area

This permit provides **coverage** for construction and **support activity** throughout the State of Nebraska excluding tribal land within the State of Nebraska and as per limitations in Part I.C.4 of this permit.

C. Eligibility

Permit eligibility is limited to discharges from construction activity as defined in Part VII of this permit or as otherwise designated by the Director. This general permit contains eligibility restrictions, as well as permit conditions and requirements. These eligibility provisions must be continued to be satisfied to maintain permit authorization. If the **permittee** does not meet the requirements that are a precondition to eligibility, then resulting discharges constitute unpermitted discharges. Conversely, if the permittee does not comply with the requirements of the general permit, the permittee may be in violation of the general permit for otherwise eligible discharges.

1. Allowable Storm Water Discharges

Subject to compliance with the terms and conditions of this permit, the permittee is authorized to discharge pollutants in:

- a. Storm water associated with large and small construction activity as defined in Part VII;
- b. Storm water discharges designated by the Director requiring a storm water permit under NDEQ Title 119, *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System (NPDES)* Chapter 2.002.06E.
- c. Part I.C.1.a and Part I.C.1.b allowable discharges commingled with an authorized discharge by a different **NPDES** permit and/or a discharge that does not require NPDES permit authorization; and
- d. Storm water discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas, etc.) provided:
 - 1) The support activity is directly related to the construction site required to have NPDES permit coverage for discharges of storm water associated with construction activity;
 - 2) The support activity is not a commercial operation serving multiple unrelated construction projects by different **operators**, and does not operate beyond the completion of the construction activity at the last construction project it supports; and
 - 3) Appropriate controls and measures are identified in a **Storm Water Pollution Prevention Plan (SWPPP)** covering discharges from the support activity areas.

2. Allowable Non-Storm Water Discharges

The permittee is authorized for the following:

- a. Discharges from firefighting activities;
- b. Fire hydrant flushings;
- c. Water used to wash vehicles where detergents are not used;

- d. Water used to control dust;
- e. Potable water including uncontaminated water line flushings;
- f. Routine external building wash down that does not use detergents;
- g. Pavement wash water where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been recovered) and where detergents are not used;
- h. Uncontaminated air conditioning or compressor condensate;
- i. Uncontaminated groundwater or spring water;
- j. Foundation or footing drains where flows are not contaminated with process materials such as solvent; and
- k. Landscape irrigation.

3. Prohibited Non-Storm Water Discharges

The permittee is prohibited for discharging the following:

- a. Wastewater from the washout of concrete, unless managed by appropriate control;
- b. Wastewater from the washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
- c. Fuels, oils, and other pollutants used in vehicle and equipment operation and maintenance; and
- d. Soaps or solvents used in vehicle equipment washing.

4. Limitations on Coverage

This permit does not authorize the following storm water runoff conditions and may be the basis for denial or termination of authorization under this general permit. The Department shall be consulted prior to the permittee's submission of the construction storm water Notice of Intent **CSW-NOI** if any of the following conditions apply:

- a. This permit does not authorize post-construction discharges that originate from the site after construction activities have been completed and the site has achieved **final stabilization** including activities at temporary support sites. Post-construction storm water discharges from industrial sites may need to be covered by a separate NPDES permit;
- b. This permit does not authorize discharges mixed with non-storm water. This exclusion does not apply to discharges identified in Part I.C.2 provided the discharges are in compliance with Part III.D.
- c. This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual NPDES permit or required to obtain coverage under an alternative general permit in accordance with Part IV.A;
- d. This permit does not authorize discharges that the Director, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality or groundwater quality standards. Where such a determination is made prior to authorization, the NDEQ may notify the permittee that an individual application is necessary in accordance with Part IV.A. However, the NDEQ may authorize coverage under this permit after the permittee has included appropriate controls and implementation procedures in the SWPPP designed to bring the site discharge into compliance with water quality standards;
- e. Storm water runoff from construction activity within the limits of an Indian lands under the jurisdiction of the United States Government, dependent Indian communities within the borders of the United States, or other Indian allotments;
- f. Non-point source agricultural and **silvicultural discharges**;
- g. Storm water effluent guidelines limitations apply to;
 - 1) Those from an operating landfill;
 - 2) Storm water runoff that may adversely impact critical habitat of aquatic related, threatened, or endangered species as designated by Nebraska Game and Parks Commission or the U.S. Fish and Wildlife Service.
 - 3) Storm water runoff that may adversely affect properties listed or eligible for listing in the National Register of Historic Places or affecting known or discovered archeological sites; or
 - 4) Those that the Director determines would be more effectively regulated with a site-specific, area-specific, or a basin-specific permit.

5. Period of Coverage

- a. This permit is effective for five (5) years from the issue date.
- b. Coverage shall commence at the time discharge authorization is granted and shall continue for a period lasting up to 180 days after final stabilization and **Notice of Termination** is received for the site.
- c. The permittee shall be responsible for ensuring that final stabilization is accomplished on all **non-impervious surfaces** of the authorized construction site prior to submitting form CSW-NOT.
- d. Coverage under this permit is normally terminated 180 calendar days after:
 - 1) All soil disturbing construction activity has been completed;
 - 2) A uniform perennial vegetative cover with a minimum density of 70 percent of the native background vegetative cover, has been established on all non-impervious surfaces and areas not covered by permanent structures unless equivalent permanent stabilization (such as riprap, gabions, and geotextiles) measures have been employed;
 - 3) All permanent drainages, constructed to drain water from the site, has been stabilized to prevent erosion;
 - 4) All **temporary erosion protection** and sediment control BMPs have been removed without compromising the permanent erosion protection and sediment control BMPs;
 - 5) All sediment build-up has been removed from conveyances and basins that are to be used as permanent water quality management BMPs. The cleanout of permanent basins used as temporary BMPs during construction shall be sufficient to return the basin to design capacity;
 - 6) Responsibility for long-term maintenance of permanent BMPs have been assigned;
 - 7) Construction activity conducted on or through agricultural or silvicultural land shall be considered finally stabilized upon return to the preexisting agriculture or silviculture use; and
 - 8) Construction activity conducted at new or industrial facilities that will operate the site in an exposed manner (such as limestone mining and solid waste landfills) shall be considered finally stabilized upon commencement of industrial activity consistent with the industrial use and coverage under the appropriate NPDES permit for industrial storm water.
- e. The Director can extend coverage under the permit beyond the time period specified in this section if excessive erosion problems remain at the site.

Part II. Authorization for Discharges of Storm Water from Construction Activity

A complete and accurate construction storm water Notice of Intent (CSW-NOI), as described in this Part II, must be submitted to NDEQ for coverage under the general permit. Discharges are not authorized if the CSW-NOI is incomplete, inaccurate, or ineligible for coverage under the permit.

A. Authorization to Discharge Date

1. The Department will confirm all authorized permits. However, the permittee is authorized to discharge storm water from construction activities under the terms and conditions of the general permit seven (7) calendar days after submittal to the NDEQ of a complete and accurate CSW-NOI (e.g., seven (7) days from date of submittal), except as noted in Part II.A.2.
2. The Director may delay authorization based on eligibility considerations of Part I.C. In these instances, the permittee is not authorized to discharge until reception of notice from NDEQ that the project activities are eligible for coverage under the permit.

B. CSW Notice of Intent Contents

The permittee should use the CSW-NOI form provided on the NDEQ website. The permittee must provide the following information on the CSW-NOI form:

1. Project/site name, address, county or similar governmental subdivision, and latitude/longitude or legal description of the construction project or site;
2. The **certifying official's** legal name, company, address, email, and phone number;
3. The SWPPP designer's name, company, address, email, and phone number;
4. The location where the applicable SWPPP may be viewed;

5. A site map as described in Part III.B.1.d of this permit;
6. Name of the water(s) of the state into which your site discharges;
7. Estimated dates of commencement of construction activity and final stabilization (e.g., project start and completion dates);
8. Total acreage (to the nearest quarter-acre) to be disturbed for which the permittee is requesting permit coverage;
9. Any state or federally-listed threatened or endangered species, or state or federally designated critical habitat in the project area to be covered by this permit;
10. A certification statement, signed and dated by a certifying official as defined in Part VI.D.6.

C. Submission Deadlines

1. **New Projects:** The permittee must submit a complete and accurate CSW-NOI and be authorized consistent with Part II.A.1 prior to commencement of construction activities.
2. **Ongoing Projects Currently Permitted under the CSW-2008 General Permit:** If the permittee wishes to continue coverage under the CSW-2008 general permit:
 - a. Submit a CSW-NOI, available on the NDEQ website, within 180 days of the issuance date of the new general permit; and
 - b. Until the permittee is authorized under the new general permit consistent with Part II.A, comply with the terms and conditions of the CSW-2008 general permit under which the permittee is currently authorized.
 - c. If the permittee meets the termination of coverage requirements in accordance with Part V.A within 180 days of the issuance date of the new general permit such as construction activities that will have achieved final stabilization, the permittee must:
 - 1) Submit a CSW-NOT using the form provided on the NDEQ website; and
 - 2) Until coverage is no longer required, comply with the terms and conditions of the CSW-2008 general permit.
3. **Late Notifications:** When a late CSW-NOI is submitted for discharges otherwise consistent with Part II.A, the Department reserves the right to take enforcement action for any unpermitted discharges that occur between the commencement of construction and discharge authorization. Such discharges may have occurred during initiating clearing, grading, excavation activities, or other construction activities.

D. Additional Requirements

1. The Department may request additional information from the source:
 - a. To facilitate the review of the CSW-NOI;
 - b. To finalize a determination related to the granting of a discharge authorization; or
 - c. To determine when a site-specific, area-specific, or basin-specific permit application may be required.
2. When storm water is discharged through municipal separate storm sewer systems (MS4s), applicants shall submit a copy of their CSW-NOI and approval letter to the operator of the municipal separate storm sewer system through which they discharge, prior to commencement of construction. Appendix B has a listing of those municipalities that are permitted under the Municipal Separate Storm Sewer System program.
3. Other governmental agencies (e.g., U.S. Army Corps of Engineers, Local City/State Government, or the local Natural Resource District) may have additional notification requirements. Submittal of the NPDES form CSW-NOI does not relieve the applicant of responsibility to comply with the requirements of other government agencies.

Part III. Storm Water Pollution Prevention Plans (SWPPP)

A. Storm Water Pollution Prevention Plan Framework

1. A SWPPP must be prepared prior to submission of a CSW-NOI as required in Part II.B. The SWPPP must be prepared by **qualified personnel**.
2. The SWPPP must:

- a. Identify all potential sources of pollution with may reasonably be expected to affect the quality of storm water discharges from the construction site;
 - b. Minimize erosion on disturbed areas and minimize the discharge of sediment and other pollutants in storm water runoff;
 - c. Describe controls to be used to reduce pollutants in storm water discharges from the construction site; and
 - d. Assure compliance with the terms and conditions of this permit.
3. Once a definable area has achieved final stabilization, the permittee may mark on the SWPPP site plan map that no further SWPPP requirements apply to that portion of the site. For example, when earth-disturbing activities around one of three buildings in a complex is completed and the area is finally stabilized, or one mile of a roadway or pipeline project is done and finally stabilized, etc.
 4. The permittee must implement the SWPPP and modifications to the SWPPP from commencement of construction activity until final stabilization is complete.

B. Pollution Prevention Plan Contents: Site and Activity Description

1. The SWPPP must describe the nature of the construction activity including:
 - a. The function of the project (e.g., low-density residential, shopping mall, highway, etc.);
 - b. The intended sequence and timing of activities that disturbs land on the site;
 - c. Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities, including permittee-controlled offsite borrow and fill areas; and
 - d. A general location map (e.g., USGS quadrangle map, a portion of the city or county map, or other map) with enough detail to identify the location of the construction site and water(s) of the state within one mile of the site.
2. The SWPPP must contain a legible site map(s) showing the entire site during grading, construction, and post-construction phases, identifying:
 - a. Direction(s) of storm water flow and approximate slopes anticipated after major grading activities;
 - b. Areas of land disturbance and areas of land that will not be disturbed;
 - c. Locations of major structural and nonstructural **Best Management Practices (BMPs)**;
 - d. Locations where stabilization practices are expected to occur;
 - e. Locations of onsite or offsite material, waste, borrow or equipment storage areas;
 - f. Locations of all Waters of the State, including wetlands;
 - g. Locations where storm water discharges to a surface water; and
 - h. Location of the perimeter controls, if used, installed to retain sediment from storm water runoff from earth disturbing activities.
 - i. Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.
3. The SWPPP must contain documentation of the following site and activity records:
 - a. Dates when major grading activities occur;
 - b. Dates when construction activities temporarily or permanently cease on a portion of the site; and
 - c. Dates when stabilization measures are initiated.

C. Storm Water Pollution Prevention Plan to Eliminate or Minimize Pollution

The SWPPP must include a description of all pollution control measures (e.g., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges. BMPs and work practices should follow the requirements set forth in 40 CFR Part 450. Each major activity identified in the project description of the SWPPP must clearly describe the planned controls and the general sequence during the construction process in which the measures will be implemented. The SWPPP must include:

1. A description of interim and permanent stabilization practices for the site including a schedule of when the measures and practices will be implemented.
2. A description of all temporary construction storm water management measures that retain/detain flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the construction site.
3. A description of all post-construction storm water management measures that retain/detain flows or otherwise limit runoff and the discharge of pollutants.

4. A description of the controls to be used to prevent the following prohibited discharges:
 - a. Wastewater from washout of concrete, unless managed by an appropriate control implemented according to industry standards;
 - b. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials, unless managed by an appropriate control implemented according to industry standards;
 - c. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
 - d. Soaps, solvents, or detergents used in vehicle and equipment washing; and
 - e. Toxic or hazardous substances from a spill or other release.
5. A description of measures to minimize, to the extent practicable, vehicle tracking of sediments offsite onto paved surfaces and the generation of dust. The following must be included with this requirement:
 - a. Restrict vehicle use to properly designated exit points. If designated exit points are modified or added to the site, update SWPPP accordingly;
 - b. Use appropriate stabilization techniques at all points that exit onto paved roads so that sediment removal occurs prior to vehicle exit;
 - c. Where necessary, use additional controls to remove sediment from vehicle tires prior to exit; and
 - d. Where sediment has been tracked-out from your site onto the surface of off-site streets, other paved areas, and sidewalks, the deposited sediment must be removed by the end of the same work day in which the track-out occurs or by the end of the next work day if track-out occurs on a non-work day.
6. A description of construction materials, products and waste materials expected to be stored at the construction site or supporting areas. The description to include controls and storage practices to minimize exposure of the materials to storm water and storm water runoff.
7. If fueling and/or maintenance of equipment or vehicles at the construction site or supporting areas, an effective means of eliminating the discharge of spilled or leaked chemicals, including fuel, from the area must be implemented by at minimum:
 - a. Ensuring adequate supplies are available at all times to handle spills, leaks, and disposal of used liquids;
 - b. Using drip pans and absorbents under or around leaky vehicles;
 - c. Disposing of or recycle oil and oily wastes in accordance with other federal, state, tribal, or local requirements;
 - d. Cleaning up spills or contaminated surfaces immediately, using dry clean up measures where possible, and eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge; and
 - e. Not cleaning surfaces by hosing the area down.
8. **Spill prevention control and countermeasure plan (SPCC)**, if facility possesses an SPCC plan.
9. A description of potential pollutant sources and the controls and measures to be implemented at supporting areas of the construction site such as dedicated asphalt plants or dedicated concrete plants.
10. A description of controls for discharges from stockpiled sediment or soil.
11. A description of controls to minimize dust through appropriate water or other dust suppression techniques.

D. Non-Storm Water Discharge Management

The SWPPP must identify all allowable sources of non-storm water discharges listed in Part I.C.2 of this permit, except for flows from firefighting activities that are combined with storm water discharges associated with construction activity at the site. Non-storm water discharges should be eliminated or reduced to the extent feasible. The SWPPP must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

E. Construction Storm Water Effluent Limitation Guidelines

1. Any **new source** must achieve, at a minimum, the control BMPs in this permit.
2. All construction point sources must achieve the following erosion and sediment controls:
 - a. Control storm water volume and velocity to minimize soil erosion in order to minimize pollutant discharges;

- b. Control storm water discharges, including both peak flow rates and total storm water volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points;
 - c. Minimize the amount of soil exposed during construction activity;
 - d. Minimize the disturbance of **steep slopes**;
 - e. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity, and duration of precipitation, the nature of resulting storm water runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;
 - f. Provide and maintain natural **buffers** around Waters of the United States unless the construction activity is **dependent**, direct storm water to vegetated areas and maximize storm water infiltration to reduce pollutant discharges;
 - g. Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it is to be compacted; and
 - h. Preserve topsoil, unless infeasible. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.
3. Soil stabilization of disturbed areas must, at a minimum, be initiated immediately, unless infeasible. Stabilization is required when any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed.
4. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.
5. Design, installation, implementation, and maintenance of effective pollution prevention measures shall at the minimum:
- a. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
 - b. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to storm water. Minimization of exposure is not required in cases where the exposure to precipitation and to storm water will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of storm water contamination (such as final products and materials intended for outdoor use); and
 - c. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
6. When a site is discharging from basins and impoundments, the site must utilize outlet structures that withdraw water from the surface, unless infeasible.

F. Maintenance of Control BMPs

1. Stabilization measures must be initiated as soon as practicable but no later than fourteen (14) days in portions of the construction site that have temporarily or permanently ceased except as provided below:
 - a. Where snow or frozen ground conditions preclude stabilization within 14 days;
 - b. When earth disturbing construction activities will resume within 14 days;
 - c. When perennial vegetative stabilization measures are not possible within 14 days due to semiarid climates or drought stricken conditions; or
 - d. When storm runoff velocity dissipation features have yet to be installed along the length of an **outfall** channel that would protect natural physical and biological characteristics and functions such as the hydrological regime of the **receiving water**.
2. Installation of stabilization measures must be completed within 14 days.
3. Preserve topsoil where practicable.
4. Minimize soil compaction after final vegetative stabilization has begun.

5. Minimize the disturbance of steep slopes to prevent erosion and implement controls as needed for disturbed slopes.
6. Contaminated or turbid groundwater, accumulated storm water, or non-storm water may not be discharged unless such waters are effectively managed by effective controls.
7. When sediment escapes the construction site boundaries, the offsite accumulations must be removed promptly to minimize the disturbance. In addition, the erosion controls for that portion of the project must be reviewed for adequacy of design and/or implementation to prevent reoccurrence with updates or modifications to the SWPPP as appropriate.
8. Temporary Construction Control BMPs
 - a. All temporary control measures must be properly selected, installed, and maintained in accordance with relevant manufacturer specifications, good engineering practices, and applicable federal, state, and local requirements.
 - b. If periodic inspections or other information indicates a control has been installed incorrectly or if the control implemented as planned is ineffective, the operator must either correct the deficiencies of the existing control or modify that portion of the SWPPP plan and implement effective controls as soon as practicable. See Part III.J for site inspection requirements.
 - c. Corrective actions must be completed within seven (7) days or before the next storm event whichever is practicable.
 - d. If corrective actions before the next storm event is impracticable, the situation must be documented in the SWPPP and alternative BMPs must be implemented as soon as possible.
 - e. Sediment from sediment traps or sedimentation ponds must be removed when design capacity has been reduced by 50 percent.
9. Permanent Post-Construction Controls (Permanent BMPs)
 - a. All permanent control measures must be properly selected, installed, and maintained in accordance with relevant manufacturer specifications, good engineering practices and applicable federal, state, and local requirements.
 - b. Permanent post-construction BMPs put into service during construction activities must be maintained the same as temporary construction control BMPs by the operator during construction.
 - c. Groundwater infiltration must be considered a priority BMP unless recharge will impair highest beneficial use of groundwater or discharge to a designated waterbody is preferable.

G. Permit Eligibility Related to Endangered Species

The SWPPP must include documentation supporting a determination of permit eligibility with regard to endangered species including:

1. Information on whether state or federally-listed endangered or threatened species, or designated critical habitat may be in the project area;
2. Whether such species or critical habitat may be adversely affected by storm water discharges or storm water discharge-related activities from the project;
3. Any correspondence for any stage of project planning between the U.S. Fish and Wildlife Service (FWS), Nebraska Game and Parks Commission (NGPC), EPA, NDEQ, or others and the permittee regarding listed species and critical habitat, including any notification that delays the authorization to discharge under this permit;
4. A description of measures necessary to protect state and federally-listed endangered or threatened species, or state and federally designated critical habitat. The permittee must describe and implement such measures to be eligible for coverage under this permit. This description does not relieve permittee of responsibilities under the Federal Endangered Species Act or Nebraska Nongame and Endangered Species Conservation Act.

H. SWPPP Accompanying Documents

A copy of the signed and certified CSW-NOI and NDEQ's approval letter notifying the permittee that the CSW-NOI is administratively complete must accompany the SWPPP once available.

I. Applicable State or Local Requirements

The SWPPP must be consistent with all applicable federal, state, or local requirements for erosion control and storm water management including updates to the SWPPP as necessary to reflect any revisions to applicable federal, state, or local requirements.

J. Inspections

1. Inspections must be conducted at least once every fourteen (14) calendar days, and within 24 hours of the end of a storm even of one-half (0.5) inches or greater. See Part III.F for actions and time frames required to address ineffective BMPs.
2. Inspection frequency may be reduced to at least once every month if:
 - a. The entire site is temporarily stabilized;
 - b. Runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or the ground is frozen);
 - c. Reduced inspection frequency does not relieve the permittee of the maintenance responsibilities during interim periods.
3. Inspections must be conducted by qualified personnel provided by the operator or cooperatively by multiple operators.
4. Representative inspections may be conducted on long narrow linear construction such as utility lines and pipelines construction projects when inspection vehicle access may increase the potential for erosion. In these circumstances, controls must be inspected at the permit specified frequency, and include a representational portion of the construction that extends a quarter (0.25) mile above and below access points not to exceed the reach of the project where a roadway, undisturbed right-of-way, or other similar feature intersects the construction site.
5. The following areas at minimum must be inspected:
 - a. All areas that have been cleared, graded, or excavated and that have not yet completed stabilization;
 - b. All storm water controls installed at the site to comply with this permit;
 - c. Material, waste, borrow, or equipment storage and maintenance areas covered by this permit that are managed by the owner and/or operator;
 - d. All areas where storm water typically flows within the site, including drainage ways designed to divert, convey, and/or treat storm water;
 - e. All points of discharge from the site, unless considered unsafe or inaccessible using the best professional judgment of the inspector; and
 - f. All locations where stabilization measures have been implemented.
6. For each inspection required above, the permittee must complete an inspection report. At a minimum, the inspection report must include:
 - a. The inspection time and date;
 - b. Names and titles of personnel making the inspection;
 - c. Weather information for the period since the last inspection (or since commencement of construction activity if this is the first inspection) including a best estimate using publically accessible data of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred;
 - d. Weather information and a description of any discharges occurring at the time of the inspection;
 - e. Location(s) of discharges of sediment or other pollutants from the site;
 - f. Location(s) of BMPs that need to be maintained;
 - g. Location(s) of BMPs that failed to operate as designed or proved inadequate;
 - h. Monitoring results if requested;
 - i. Records of grading activity since last inspection;
 - j. Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
 - k. Corrective action that required changes to the SWPPP and the date the plan changes were implemented.
7. A record of each inspection and of any actions taken must be retained as part of the SWPPP for at least three (3) years from the date that permit coverage expires or is terminated. The inspection reports must identify any incidents of non-compliance with the permit conditions. Where a report does not identify

any incidents of non-compliance, the report must contain a certification that the construction project or site is in compliance with the SWPPP and this permit. The report must be signed in accordance with Part VI.D.6 of this permit.

K. Maintaining an Updated Plan

1. The SWPPP, including the site map, must be amended whenever there is a change in design, construction, operation, or maintenance at the construction site that has or could have a significant effect on the discharge of pollutants to Waters of the State that has not been previously addressed in the SWPPP.
2. If during inspections or investigations by site staff, or by local, state, or federal officials, it is determined that the SWPPP is ineffective at eliminating or significantly minimizing pollutants in storm water discharges from the construction site, the SWPPP must be amended.
3. Revisions to the SWPPP to improve ineffective controls must be completed within seven (7) calendar days following the inspection. See Part III.E.7.d regarding correcting or modifying temporary construction controls.

L. Making Plans Available

1. A copy of the SWPPP, a copy of the CSW-NOI, and the letter from the NDEQ notifying the permittee of an approved CSW-NOI must be retained at the construction site or other locations easily accessible during normal business hours. The SWPPP must be made available upon request to federal, state, and local agencies, from the date of commencement of construction activities to the date of final stabilization. The SWPPP and corresponding documents may be posted online, but the construction site must have internet access.
2. A sign or other notice must be posted conspicuously near the entrance of the construction site. If displaying near the main entrance is infeasible, the notice can be posted in a local public building such as the town hall or public library. For linear projects, the sign or other notice must be posted at a publicly accessible location near the active part of a construction project (e.g. where a pipeline project crosses a public road). The sign or other notice must contain the following information:
 - a. A copy of the completed CSW-NOI as submitted to the NDEQ; and
 - b. A copy of the SWPPP, or, if the sign or notice does not contain a copy of the SWPPP, it must detail the name and telephone number of the contact person for obtaining access to the SWPPP, and the current location of the SWPPP. If the SWPPP is posted online, the sign must detail the website address, online location, or methodology to obtain the SWPPP.

Part IV. Special Conditions, Management Practices, Other Non-Numeric Limitations

A. Requiring an Individual Permit or an Alternative General Permit

1. The NDEQ may require the permittee to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested party may petition the NDEQ to take action under this paragraph. If the NDEQ requires the permittee to apply for an individual NPDES permit, the NDEQ will notify the permittee in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision and an application form. In addition, if the applicant is an existing permittee covered under this permit, the notice will set a deadline to file the application, and will include a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the permittee, coverage under this general permit will automatically terminate. Applications must be submitted to the NDEQ. The NDEQ may grant additional time to submit the application upon request. If the permittee is covered under this permit and fail to submit in a timely manner an individual NPDES permit application as required by the NDEQ, then the applicability of this permit is automatically terminated at the end of the day specified by the NDEQ as the deadline for application for submittal.
2. The permittee may request to be excluded from the coverage of this general permit by applying for an individual permit. In such a case, the permittee must submit an individual application in accordance with the requirements of NDEQ Title 119, with reasons supporting the request to the NDEQ. The request may

be granted by issuance of an individual permit or an alternative general permit if the submitted reasons are adequate to support the request.

3. When an individual NPDES permit is issued to the permittee, who are otherwise subject to this permit, or are authorized to discharge under an alternative NPDES general permit, the applicability of this permit is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. If the permittee, who is otherwise subject to this permit, is denied an individual NPDES permit or an alternative NPDES general permit, the applicability of this permit is automatically terminated on the date of such denial, unless otherwise specified by the NDEQ.

B. Oil and Hazardous Substances/Spill Notification

Hazardous substances or oil must be prevented from contaminating storm water runoff. The SWPPP must contain a plan to prevent spills, minimize quantity released during spills, contain spills, cleanup and dispose of wastes from spills. If the facility has a SPPP plan, the SPCC will qualify. This permit does not authorize the discharge of hazardous substances or oil from an onsite spill. The permittee shall conform to the provisions set forth in NDEQ Title 126, *Rules and Regulations Pertaining to the Management of Wastes* and federal reporting requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302 relating to spills or other releases of oil or hazardous substances.

The permittee must notify the Department if the permittee knows, or has reason to believe, that a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under NDEQ Title 126, 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302.

1. The Permittee shall immediately notify the Department as soon as practicable of a reportable release of oil or hazardous substances. Notification shall be made to NDEQ at (402) 471-2186 or toll free (877) 253-2603 year round day or night.
2. If the NDEQ does not answer or is unavailable, the permittee shall report to the Nebraska State Patrol at (402) 471-4545 year round day or night. It shall be the permittee's responsibility to maintain current telephone numbers necessary to carry out the notification requirements set forth in this paragraph.
3. All information known about the release at the time of discovery is to be reported, such as contact information, time of occurrence, quantity and type of material, location and any corrective or cleanup actions undertaken or in process.
4. NDEQ requires a final written report for all reportable releases of oil or hazardous substances. When a final written report is required, it must be submitted to NDEQ within 15 days of remedial action, or, if no remedial action occurs, within 15 days of the release. A final report shall contain, at a minimum, the following information:
 - a. Date, time and duration of the release;
 - b. Location of release;
 - c. Person or persons causing and responsible for the release;
 - d. Type and amount of oil or hazardous substance released;
 - e. Cause of the release;
 - f. Environmental damage caused by the release;
 - g. Actions taken to respond, contain and clean up the release;
 - h. Location and method of ultimate disposal of the oil or hazardous substance and other contaminated materials;
 - i. Actions being taken to prevent a reoccurrence of the release;
 - j. Any known or anticipated acute or chronic health risks associated with the release; and
 - k. When appropriate, advice regarding medical attention necessary for exposed individuals.
5. The permittee must complete corrective actions as required under Part III.J within seven (7) calendar days of knowledge of the release to prevent reoccurrence of such a release.

C. Attainment of Water Quality Standards after Authorization

1. The permittee must select, install, implement, and maintain BMPs at the construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. In general except in

situations explained in this section, the SWPPP developed, implemented, and updated consistent with Part III is considered as stringent as necessary to ensure that the discharges do not cause or contribute to an excursion above any applicable water quality standard.

2. At any time after authorization, NDEQ may determine that site storm water discharges may cause or have reasonable potential to cause or contribute to an excursion above any applicable water quality standard. The reasonable potential to cause or contribute to an excursion will be determined by the Department using TMDL information, receiving stream parameters, and the best professional judgment of the permitting authority. If such a determination is made, the NDEQ will require the permittee to:
 - a. Develop a supplemental BMP action plan describing SWPPP modifications in accordance with Part III to address adequately the identified water quality concerns;
 - b. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or
 - c. Cease discharges of pollutants from construction activity, and submit an individual permit application according to Part IV.A.
3. All written responses required under this part must include a signed certification from the certifying official.

D. Discharges Affecting Endangered or Threatened Species

This permit does not replace or satisfy any review requirements for endangered or threatened species from new or expanded discharges that adversely impact or contribute to adverse impacts on a listed endangered or threatened species or adversely modify a designated critical habitat. The **owner** must conduct any required review and coordinate with appropriate agencies for any project with the potential; of affecting threatened or endangered species, or their critical habitat.

E. Discharged Affecting Historical Places or Archeological Sites

This permit does not replace or satisfy any review requirements for historic places or archeological sites, from new or expanded discharges with adversely affect properties listed or eligible for listing in the National Register of Historic Places, or affecting known or discovered archeological sites. The owner must be in compliance with the National Historic Preservation Act and conduct all required review and coordination related to historic preservation, including significant anthropological sites and any burial sites, with the Nebraska Historic Preservation Officer. The permittee must comply with all applicable state and local laws concerning the protection of historic properties and places. The permittee's discharge authorization under this permit is contingent upon compliance.

F. Activities/Discharges Subject to other Applicable Regulations

This permit does not replace or satisfy any other applicable regulatory requirements that the applicant/permittee are subject to. The initiator of any controlled/regulated activity is the sole responsible party for obtaining authorization or permit coverage and for maintaining compliance with any applicable laws, regulations, or rules that may apply to permittee activities.

G. Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and effect. If the permittee is granted permit coverage prior to the expiration date, the permittee will automatically remain covered by the continued permit until reissuance or replacement of this permit, at which time the permittee must comply with the conditions of Part II.C.2; or

1. Submit a Notice of Termination form;
2. Apply for coverage under an individual permit for the project's discharges; or
3. If the NDEQ determines a general permit will not be reissued, the permittee must seek coverage under an alternative general permit or an individual permit.

Part V. Termination, Transfer, or Reassignment of Permit Coverage

A. Notice of Termination Requirements

The permittee may only submit a Notice of Termination (NOT) after one or more of the following conditions have been met:

1. Final stabilization has been achieved on all portions of the site for which the permittee is responsible;
2. Another operator has assumed control according to Part V.C over all areas of the site that have not been finally stabilized;
3. Coverage under an individual or alternative general NPDES permit has been obtained; or
4. For residential construction only, temporary erosion protection has been completed and the residence has been reassigned to the homeowner.

The CSW-NOT must be submitted within 30 days of one of the above conditions being met. Authorization to discharge terminates according to the timeline and requirement of Part I.C.5 of this permit. The NOT form is available on the NDEQ website.

B. Submitting a Notice of Termination

It is the permittee's responsibility to submit a complete and accurate notice of termination (CSW-NOT) form obtained on the NDEQ website. If the NDEQ notified dischargers (either directly by public notice, or by making information available on the internet) of other CSW-NOT form options, the permittee may take advantage of those options to satisfy the requirements of Part V.

1. After one of more of the notice of termination requirements in Part V.A has been met, the permittee must submit the following information to the NDEQ:
 - a. The NPDES permit authorization number for the storm water discharge;
 - b. The basis for submission of the CSW-NOT, including: final stabilization has been achieved for all portions of the site for which the permittee is responsible; another operator/permittee has assumed control over all areas of the site that have not been finally stabilized; coverage under an alternative NPDES permit has been obtained; or for residential construction only, temporary erosion protection has been completed and the residence has been transferred to the homeowner;
 - c. The Owner's assignment for responsibility of maintenance of the post-construction BMPs must be identified.
 - d. The plans for training operators or maintenance staff of the post construction BMPs must be described.
 - e. The certifying official's legal name, address, email, and phone number;
 - f. The name of the project address (or a description of location if no street address is available), and county of the construction site for which the notification is submitted; and
 - g. A certification statement signed and dated by a certifying official.

C. Transfer of Permit

When responsibility for storm water discharges at a construction site changes from one entity to another, the permittee shall complete a CSW Transfer on the NDEQ website that is signed in accordance with Part VI.D.6 of this permit.

1. The Construction Storm Water transfer (CSW-Transfer), includes:
 - a. Permit certification number;
 - b. Name, location, and county for the construction site for which the CSW-Transfer is being submitted;
 - c. Identifying information for the new permittee;
 - d. Identifying information for the current permittee; and
 - e. Effective date of transfer.
2. Other Requirements of a Permit Transfer
 - a. If the storm water discharge, associated with construction activity, is covered by this permit then the new owner(s) shall comply with all terms and conditions of this permit.
 - b. A copy of any CSW permit authorizations (NOIs or NOTs) shall be included in the SWPPP.

- c. A CSW-NOI shall be submitted to the NDEQ by the new owner(s).
- d. For construction activity which is part of a larger common plan of development, if the permittee transfers ownership of all or any part of property subject to this permit, both the permittee and transferee shall be responsible for compliance with this permit for that portion of the project which has been transferred including when transferred property is less than one (1) acre in area.
- e. If the new owner(s) agree in writing to be solely responsible for compliance with this permit for the property that has been transferred, then the existing permittee(s) authorization shall be terminated.

Part VI. Standard Conditions and Requirements

These general conditions shall not preempt any more stringent requirements found elsewhere in this permit.

A. Other Conditions

1. Narrative limits

Discharges authorized under this permit:

- a. Shall not be toxic to aquatic life in surface Waters of the State;
- b. Shall not contain pollutants at concentrations or levels that produce objectionable films, colors, turbidity, deposits, or noxious odors in the receiving stream or waterway; and
- c. Shall not contain pollutants at concentrations or levels that cause the occurrence of undesirable or nuisance aquatic life in the receiving stream.

2. Inspection and Entry

The permittee shall allow the Director or their appointed representative, upon the presentation of his or her identification and at a reasonable time:

- a. To enter upon a permittee's premises where regulated construction activity is located or conducted, or records are required to be kept under the terms and conditions of this permit;
- b. To have access to and copy any records required to be kept under the terms and conditions of this permit;
- c. To inspect any facilities, equipment (including monitoring and control), practices or operations regulated or required in this permit; and
- d. To sample or monitor any substances or parameters at any location.

3. Changes in Discharge

Any revision in the size of construction activity (such as the addition of disturbed acres not previously identified under the original CSW-NOI form), which will result in new or substantially increased discharges of pollutants or a change in the nature of the discharge of pollutants must be reported by the permittee seven (7) calendar days prior to the expansion, increases or modifications by submitting a modification of the original form CSW-NOI or by submitting a new form CSW-NOI. Permit authorization may be modified or revoked and reissued as a result of this notification to maintain compliance with applicable state or federal regulations.

B. Procedures for Modification or Revocation

Permit modification or revocation will be conducted according to Title 119, Chapter 24. If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard, you may be required to obtain an individual permit in accordance with Part IV.A of this permit, or the permit may be modified to include different limitations and /or requirements.

C. Timing of Permit Modification

The NDEQ may elect to modify the permit prior to its expiration (rather than waiting for the new permit cycle) to comply with any new statutory or regulatory requirements, such as for effluent limitation guidelines, which may be promulgated in the course of the current permit cycle.

D. Management Requirements

1. Duty to Comply

All authorized discharges shall be consistent with the terms and conditions of this permit. The permittee shall comply with all conditions of this permit. Failure to comply with these conditions may be grounds for administrative action or enforcement proceedings including injunctive relief and civil or criminal penalties. The filing of a request by the permittee for a permit modification, revocation and re-issuance, termination or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

2. Duty to Mitigate

The permittee shall take all reasonable steps to minimize, prevent, or correct any adverse impact to the environment resulting from noncompliance with this permit, including accelerated or additional monitoring as required by the NDEQ to determine the nature and impact of the noncompliant discharge.

3. Duty to Provide Information

The permittee shall furnish to the Department within seven (7) calendar days, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating permit coverage; or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records retained as a requirement of this permit.

4. Reporting Requirements

The permittee shall be responsible for reporting any instance of noncompliance with the terms and conditions of this permit in accordance with NDEQ Title 119, Chapter 14. In most instances, initial notification shall be made as soon as the permittee becomes aware of noncompliance. A written follow-up shall be submitted within five (5) days of reporting noncompliance. The submittal of a written noncompliance report does not relieve the permittee of any liability from enforcement proceedings that may result from the violation of permit or regulatory requirements. The written notice shall include, at a minimum:

- a. A description of the discharge and cause of noncompliance;
- b. The period of noncompliance, including exact date and times, or if not corrected, the anticipated time the noncompliance is expected to continue; and
- c. The steps taken to reduce, eliminate, and prevent the reoccurrence of noncompliance.

5. Proper Operation and Maintenance

The permittee shall, at all times, maintain in good working order and operate as efficiently as possible, any facilities or systems of control installed by the permittee in order to achieve compliance with the terms and conditions of this permit. This would include, but not be limited to, effective performance based on designed facility removals, effective management, adequate operator staffing and training, adequate laboratory and process controls, and adequate funding that reflects proper user fee schedules.

6. Signatory Requirements

All reports and applications required by this permit or submitted to maintain compliance with this permit shall be signed and certified as set forth in this section.

- a. Permit applications shall be signed by a certifying official that meets the following criteria:
 - 1) For a corporation: a responsible corporate officer;
 - 2) For a partnership or sole proprietorship: by a general partner or by the proprietor, respectively; or
 - 3) For a municipality, state, federal or other public facility: by either a principal executive officer or ranking elected official, chief executive officer of the agency, or senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- b. The discharge monitoring reports (DMRs) and other information may be signed by the certifying official.
- c. The certifying official may be designated as or may designate an **authorized representative**. The authorized representative is responsible for the overall implementation of the SWPPP (i.e., the general contractor).

- d. Any change in the signatories shall be submitted to the Department, in writing, within seven (7) days after the change, but no later than with the submission of information required by the Department to be submitted while the new signatory has taken responsibility.
- e. All applications, reports, and information submitted as a requirement of this permit, shall contain the following certification statement:

"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 gathered and evaluated 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 fines and imprisonment for knowing violations."

E. Monitoring and Records Requirements

1. Monitoring

Routine periodic monitoring of storm water discharges is not required unless requested by the Department. Monitoring may be required by the Department for any of the following reasons:

- a. The identification of potential groundwater and/or surface water quality impacts to which the permittee may be contributing;
- b. The failure by the permittee to implement pollution prevention or pollution control procedures set forth in the SWPPP;
- c. The recognition of potential pollutant sources during site inspections or investigations; and/or
- d. To obtain information for watershed basin or industry group studies.

2. Retention of Records

The permittee shall retain records of all monitoring activities for a period of at least three (3) years as set forth in NDEQ Title 119, Chapter 14 001.02. The types of records that must be retained include, but are not limited to:

- a. Calibration and maintenance records;
- b. Original strip chart recordings;
- c. Copies of all reports required by this permit;
- d. Monitoring records and information; and
- e. Electronically readable data.

3. Record Contents

As set forth in NDEQ Title 119, Chapter 14, records of sampling or monitoring information shall include:

- a. The date(s), exact place, time, and methods of sampling or measurements;
- b. The name(s) of the individual(s) who performed the sampling or measurements;
- c. The date(s) the analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used;
- f. The results of such analyses; and
- g. Laboratory data, bench sheets, and other required information.

F. General Requirements

1. Permit Attachments

The attachments to this permit (e.g., forms and guidance) may be modified without a formal modification to the permit.

2. Information Available

All permit applications, fact sheets, discharge data, monitoring reports, and any public comments concerning such shall be available to the public for inspection and copying, unless such information about methods or processes is entitled to protect as trade secrets of the owner and operator under Neb. Rev. Stat. §81-1527, (Cum. Supp. 1992) and NDEQ Title 115, Chapter 4.

3. Permit Actions

This permit may be modified, suspended, revoked or reissued, in part or in whole, in accordance with the regulations set forth in NDEQ Title 119, Chapter 24. In addition, this permit may be modified, revoked, and reissued to incorporate standards or limitations issued pursuant to Sections 301(b)(b)(c), 301(b)(b)(d), 304(b)(b), 306(a)(b), or 405(d) of the Clean Water Act and Public Law 100-4.

4. Property Rights

Coverage under this permit does not convey any property rights of any sort or any exclusive privileges nor does it authorize any damage to private property or any invasion of personal rights nor any infringement of federal, state, or local laws or regulations.

5. Severability

If any provision of this permit is held invalid, the remainder of this permit shall not be affected.

6. Other Rules and Regulations Liability

The issuance of this permit in no way relieves the obligation of the permittee to comply with other rules and regulations of the Department.

7. Penalties

Nothing in this permit shall preclude the initiation of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties under Section 311 of the Clean Water Act. Violations of the terms and conditions of this permit may result in the initiation of criminal and/or civil actions. Civil penalties can result in fines of up to \$10,000.00 per day (Neb. Rev. Stat. §81-1508, as amended to date). Criminal penalties for willful or negligent violations of this permit may result in penalties of \$10,000.00 per day or by imprisonment. Violations may also result in federal prosecution.

8. Electronic Reporting

The National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule requires electronic reporting of NPDES information rather than the currently required paper based reports from the permitted facilities. To comply with the federal rule, permittees will be required to submit NOIs, CSW-Transfers, and NOTs electronically on the NDEQ website.

Part VII. Definitions

Authorized Representative: Individual or position designated the certifying official to submit reports, notifications, or other information requested by the Director on behalf of the owner under the circumstances that the authorization is made in writing by the owner, the authorization specifies the individual or position that is duly authorized, and the authorization is submitted by the Director.

Best Management Practices (BMPs): Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

Buffer: A 50 ft. buffer is required between construction activity and Waters of the United States. If the 50 ft. buffer is **infeasible**, then **BMPs** must achieve equivalent storm water treatment to the 50 ft. buffer.

Certifying Official:

- For a corporation, by a reasonable corporate office, which means:
 - 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, or
 - The manager of one or more manufacturing, production, or operating 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.

- For a partnership or sole proprietorship: By a general partner or proprietor respectively
- For a municipality, state, federal, or other public agency:
 - By either a principal executive officer of the agency, or
 - A senior executive officer having responsibility for the operations of a principal geographic unit of the agency

Combined Sewer System (CSO): Defined as a collection system that collects both storm water and sanitary wastewater with outfalls directly discharging into Waters of the State.

Common Plan of Development or Sale: A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement, or physical demarcation indicating that land-disturbing activities may occur.

Construction Activity: Includes large construction activity and small construction activity. This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated storm water runoff, leading to soil erosion and movement of sediment into waters of the state or urban drainage systems. Construction activity includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more and includes all areas of support activity.

Coverage: A permittee status of compliant operation under the terms and conditions of this general permit once a discharge authorization number has been obtained until that authorization is terminated.

Department: The Nebraska Department of Environmental Quality.

Dependent: Construction activity with direct relation to the stream such as bank stabilization, bridge construction activity, culvert construction, if the permittee is required to have a US Army Corps of Engineers 404 permit, etc.

Director: The Director of the Nebraska Department of Environmental Quality.

Discharge Authorization Number: A specific authorization number (NER 1xx xxx) issued to a specific permittee that meets the application requirements for coverage under this general permit.

Erosion Prevention: Measures employed to prevent sediment from moving from its existing location including but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

Final Stabilization: Condition where all soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a minimum density of 70 percent of the native background vegetative cover has been established on all non-impervious surfaces and areas not covered by permanent structures unless equivalent permanent stabilization measures have been employed (e.g., riprap, gabions, or geotextiles).

Impervious Surface: A constructed hard surface that either prevents or retards the entry of water into the soil and caused water flow off the surface in greater quantities and at an increased rate of flow than prior to development (e.g., streets, sidewalks, parking lots, roofs, and in some cases highly compacted soil).

Infeasible: No technologically possible, or not economically practicable and achievable in light of best industry practices.

Large Construction Activity: This activity is the clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than five (5) acres of land or will disturb less than five (5) acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five (5) acres. Large construction activity does not include routine

maintenance that is performed to maintain the original line and grade, hydraulic captivity, or original purpose of the site.

Municipal Separate Storm Sewer System (MS4): A separate storm water sewer system in urbanized cities and counties as having populations of 10,000 or greater as determined by the Bureau of Census 2010 Decennial Census.

National Pollutant Discharge Elimination System (NPDES): Program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and CFR Title 33, Sections 1317, 1328, 1342, and 1345.

New Source: Any source, whose discharges are defined in 40 CFR 122.26(b)(14)(x) and (b)(15), that commences construction activity after the effective date of December 1, 2009.

Notice of Termination (CSW-NOT): Note to terminate coverage under this permit after construction is completed, the site has undergone final stabilization, and maintenance agreements for all permanent facilities have been established, in accordance with all applicable conditions of this permit.

Operator: Person (often the general contractor) designated by the owner, who has day-to-day operational control and/or the ability to modify project plans and specifications related to the SWPPP. The person shall be knowledgeable in those areas of the permit for which the operator is responsible.

Outfall: A discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants from construction activity are or may be discharged to waters of the state.

Owner: Person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease holder, the party or individual as the lease holder; or the contacting government agency responsible for the construction activity.

Permittee: Person(s), firm, or governmental agency or other institution that signs the application submitted to the Department and is responsible for compliance with the terms and condition of this permit.

Qualified Personnel: A person knowledgeable in the principles and practice of erosion and sediment controls that possesses the skills to implement and assess the effectiveness of any erosion and sediment control measures. The qualified personnel must possess the skills to assess conditions at the construction site that could impact storm water quality, and possess the skills to assess the effectiveness of any storm water controls selected and installed to meet the requirements of this permit.

Receiving Waters: A general term used to describe all waters of the state.

Responsible Corporate Officer: The owner or operator meeting either of the following conditions: 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, or the manager of one of more manufacturing, production, or operating 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 law 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.

Sediment Control: Methods employed to prevent sediment from leaving the construction site after it has eroded from its existing location. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

Silvicultural Discharges: "Silvicultural point source" means any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharges into waters of the state. The term does not include nonpoint source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and

fire control, harvesting operations, surface drainage, and road construction and maintenance from which there is natural runoff during precipitation events.

Small Construction Activity: This activity is the clearing, grading, and excavation that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres including disturbance of less than one acre of total land area that is part of a larger common plan of development of sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

Spill Prevention Control and Countermeasure Plan (SPCC): Federal regulation set forth in 40 CFR Part 112.1 requiring a SPCC plan to be developed for temporary or permanent facilities that store oil in vessels that have following storage capacity:

- A single above ground oil storage with 660 gallons or more capacity.
- Two or more above ground storage vessels with an aggregate of 1320 gallons or more capacity.
 - Include storage vessels stored above ground with a capacity of 55 gallons or more with the aggregate total capacity.
- Below ground oil storage vessels of 42,000 gallons or more.

For the SPCC, oil refers to any kind or in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes.

Stabilized: Exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, established grass bed, or other material that prevents erosion from occurring.

Steep Slope: Generally any slope greater than 15° or has significant potential for erosion.

Storm Water: Storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Pollution Prevention Plan (SWPPP): A plan for storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease offsite, non-point source pollution.

Support Activity: Associated construction activity that is directly related to the construction site (such as disposal areas or borrow areas) required to have NPDES permit coverage for discharges of storm water that may be located on site or in a remote location, but is not a commercial operation serving multiple unrelated construction projects by different operators nor operates beyond the completion of the construction activity at the last construction project it supports.

Temporary Erosion Protection: Methods employed to temporarily prevent erosion during the construction sequence or while final stabilization is being established. Examples of temporary erosion protection include: straw, mulch, wood chips, and erosion netting.

Total Maximum Daily Load (TMDL): The sum of the individual wasteload allocations (WLAs) for point sources and load (load allocations) for nonpoint sources and natural background levels for a specific pollutant. The Department establishes TMDLs that are expressed in terms of either mass per unit of time, relative level of toxicity, or other appropriate measure.

Toxic Pollutant: Pollutants or combination of pollutants, including disease-causing agents, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism, either directly from the environment or indirectly by ingestion through food chains will, on the basis of information available to the Department, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunction (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

Waters of the State: All waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

Reference List A: Abbreviations

BMP: Best Management Practice(s)

CFR: Code of Federal Regulations

CSO: Combined Sewer Overflow

CSW: Construction Storm Water

CSW-NOI: Notice of Intent

CSW-NOT: Notice of Termination

NDEQ: Nebraska Department of Environmental Quality

NDEQ Title 115: NDEQ Title 115 – *Rules of Practice and Procedure*

NDEQ Title 117: NDEQ Title 117 – *Nebraska Surface Water Quality Standards*

NDEQ Title 118: NDEQ Title 118 – *Ground Water Quality Standards and Use Classification*

NDEQ Title 119: NDEQ Title 119 – *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System*

NDEQ Title 126: NDEQ Title 126 – *Rules and Regulations Pertaining to the Management of Wastes*

NDEQ Title 132: NDEQ Title 132 – *Integrated Solid Waste Management Regulations*

SPCC: Spill Prevention, Control, and Countermeasures

SWPPP: Storm Water Pollution Prevention Plan

TMDL: Total Maximum Daily Load

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Appendix A

Conditions Applicable to all NPDES Permits

The following conditions apply to all NPDES permits:

1. Information Available

All permit applications, fact sheets, permits, discharge data, monitoring reports, and any public comments concerning such shall be available to the public for inspection and copying, unless such information about methods or processes is entitled to protection as trade secrets of the owner or operator under Neb. Rev. Stat. §81-1527, (Reissue 1999) and NDEQ Title 115, Chapter 4.

2. Duty to Comply

- a. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Federal Clean Water Act and the Applicable State Statutes and Regulations and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.
- b. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

3. Violations of this Permit

- a. Any person who violates this permit may be subject to penalties and sanctions as provided by the Clean Water Act.
- b. Any person who violates this permit may be subject to penalties and sanctions as provided by the Nebraska Environmental Protection Act.

4. 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.

5. 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.

6. Duty to Mitigate

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

7. Proper Operation and Maintenance

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 effective performance based on designed facility removals, effective management, adequate operator staffing and training, adequate process controls, adequate funding that reflects proper user fee schedules, adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up 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 this permit.

8. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. 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.

9. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

10. 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.

11. Inspection and Entry

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon 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; and
- d. Sample 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.

12. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), 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.
- c. Records of monitoring information shall include:
 - i) The date(s), exact place, time and methods of sampling or measurements;
 - ii) The individual(s) who performed the sampling or measurements;
 - iii) The date(s) analyses were performed;
 - iv) The individual(s) who performed the analyses;
 - v) The analytical techniques or methods used; and

- vi) The results of such analyses.
- d. Monitoring must be conducted according to test procedures approved under NDEQ Title 119, Chapter 27 002 unless another method is required under 40 CFR Subchapters N – Effluent Guidelines and Standards Parts 425 to 471 or O – Sewer Sludge Parts 501 and 503.
- e. Falsifies, Tamper, or Knowingly Renders Inaccurate
 - i) On actions brought by EPA, the Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction: be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.
 - ii) On action brought by the State, The Nebraska Environmental Protection Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished pursuant to Neb. Stat. §81-1508.01.

13. Signatory requirements

- a. All applications, reports, or information submitted to the Director shall be signed and certified.
 - i) All permit applications shall be signed as follows:
 - (a) For a corporation
 - (i) 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, or
 - (b) The manager of one or more manufacturing, production, or operating 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.
 - (b) For a partnership or sole proprietorship
 - (i) By a general partner or the proprietor.
 - (c) For a municipality, State, Federal, or other public agency
 - (i) 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, or
 - (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- b. Reports and Other Information
 - i) All reports required by permits, and other information requested by the Director shall be signed by a person described in this section [paragraphs 13. a. i) (a),(b), or (c)], 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 in paragraphs 13. a. i) (a),(b), or (c);
- (b) The authorization specifies 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, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (a duly authorized representative may thus be either a named individual or any individual occupying a named position) and;
- (c) The written authorization is submitted to the Director.

c. Changes to Authorization

If an authorization of paragraphs 13. a. i) (a),(b), or (c) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification

All applications, reports and information submitted as a requirement of this permit shall contain the following certification statement:

- i) 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 gathered and evaluated 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.

e. False Statement, Representation, or Certification

- i) The CWA provides that 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 shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- ii) The Nebraska Environmental Protection Act provides criminal penalties and sanctions for false statement, representation, or certification in any application, label, manifest, record, report, plan, or other document required to be filed or maintained by the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act or the rules or regulations adopted and promulgated pursuant to such acts.

14. Reporting Requirements

a. Planned Changes

- i) The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - (a) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in NDEQ Title 119, Chapter 4 and 8.
 - (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 notification requirements under NDEQ Title 119, Chapter 15.
 - (c) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions

that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. The sludge program is not delegated to the State so notification to the EPA Regional Administrator in addition to the State is required.

b. 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.

c. Transfers

This permit is not transferable 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 NDEQ Title 119, Chapter 24 in some cases, modification or revocation and reissuance is mandatory.

d. Monitoring Reports

- i) Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- ii) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director.
- iii) Monitoring results shall be submitted on a quarterly basis using the reporting schedule set forth below, unless otherwise specified in this permit or by the Department.

Monitoring Quarters

January - March

April - June

July - September

October - December

DMR Reporting Deadlines

April 28

July 28

October 28

January 28

- iv) For reporting results of monitoring of sludge use or disposal practices
- v) Additional reports may be required by the EPA Regional Administrator.
- vi) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved in NDEQ Title 119, Chapter 27 002, or another method required for an industry-specific waste stream under 40 CFR Subchapters N – Effluent Guidelines and Standards Parts 425 to 471 and O – Sewer Sludge Parts 501 and 503, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director or EPA Regional Administrator.
- vii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

e. Compliance Schedules

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.

f. Twenty-four Hour Reporting

- i) The permittee shall report any noncompliance which may endanger human health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. 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 a description of the noncompliance and its cause; 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; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

- ii) The following shall be included as information which must be reported within 24 hours under this paragraph.
 - (a) Any unanticipated bypass which exceeds any effluent limitation in this permit.
 - (b) Any upset which exceeds any effluent limitation in this permit.
 - (c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours.
- g. The Director may waive the written report on a case-by-case basis for reports under section 14. f. ii) (a), (b) and (c) if the oral report has been received within 24 hours.
- h. Other noncompliance

The permittee shall report all instances of noncompliance not reported under paragraphs d., e., and f. of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph f. of this section.
- i. 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.
- j. Noncompliance Report Forms
 - i) Noncompliance Report Forms are available from the Department and shall be submitted with or as the written noncompliance report.
 - ii) The submittal of a written noncompliance report does not relieve the permittee of any liability from enforcement proceedings that may result from the violation of permit or regulatory requirements.

15. Bypass

- a. Definitions
 - i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
 - ii) 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 production.
- b. Bypass Not Exceeding Limitations

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 paragraphs 15.c. and d. of this section.
- c. Notice
 - i) 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.
 - ii) Unanticipated Bypass

The permittee shall submit notice of an unanticipated bypass as required in paragraph 14.f. of this section (24-hour notice).
- d. Prohibition of Bypass

Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

- i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii) 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 adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - iii) The permittee submitted notices as required under paragraph 15.c. of this section.
- e. 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 paragraph 15.d.

16. Upset

a. Definition

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. 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.

b. 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 paragraph 16.c. 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.

c. 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:

- i) An upset occurred and that the permittee can identify the cause(s) of the upset;
- ii) The permitted facility was at the time being properly operated;
- iii) The permittee submitted notice of the upset as required in paragraph 14.f. ii) (a), of this section (24-hour notice).
- iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

d. Burden of Proof

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

17. Other Rules and Regulations Liability

The issuance of this permit in no way relieves the obligation of the permittee to comply with other rules and regulations of the Department.

18. Severability

If any provision of this permit is held invalid, the remainder of this permit shall not be affected.

19. Other Conditions that Apply to NPDES and NPP Permits

a. Land Application of Wastewater Effluent

The permittee shall be permitted to discharge treated domestic wastewater effluent by means of land application in accordance with the regulations and standards set forth in NDEQ Title 119, Chapter 12 002.

The Wastewater Section of the Department must be notified in writing if the permittee chooses to land apply effluent.

b. Toxic Pollutants

The permittee shall not discharge pollutants to waters of the state that cause a violation of the standards established in NDEQ Titles 117, 118 or 119. All discharges to surface waters of the state shall be free of toxic (acute or chronic) substances which alone or in combination with other substances, create conditions unsuitable for aquatic life outside the appropriate mixing zone.

c. Oil and Hazardous Substances/Spill Notification

Nothing in this permit shall preclude the initiation of any legal action or relieve the permittee from any responsibilities, liabilities or penalties under section 311 of the Clean Water Act. The permittee shall conform to the provisions set forth in NDEQ Title 126, Rules and Regulations Pertaining to the Management of Wastes. If the permittee knows, or has reason to believe, that oil or hazardous substances were released at the facility and could enter waters of the state or any of the outfall discharges authorized in this permit, the permittee shall immediately notify the Department of a release of oil or hazardous substances. During Department office hours (i.e., 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays), notification shall be made to the Nebraska Department of Environmental Quality at telephone numbers (402) 471-2186 or (877) 253-2603 (toll free). When NDEQ cannot be contacted, the permittee shall report to the Nebraska State Patrol for referral to the NDEQ Immediate Response Team at telephone number (402) 471-4545. It shall be the permittee's responsibility to maintain current telephone numbers necessary to carry out the notification requirements set forth in this paragraph.

d. Removed Substances

- i) Solids, sludge, filter backwash or other pollutants removed in the course of treatment or control of wastewater shall be disposed of at a site and in a manner approved by the Nebraska Department of Environmental Quality.
 - (a) The disposal of nonhazardous industrial sludges shall conform to the standards established in or to the regulations established pursuant to 40 CFR Part 257.
 - (b) The disposal of sludge shall conform to the standards established in or to the regulations established pursuant to 40 CFR Part 503.
 - (c) If solids are disposed of in a licensed sanitary landfill, the disposal of solids shall conform to the standards established in NDEQ Title 132.
- ii) Publicly owned treatment works shall dispose of sewage sludge in a manner that protects public health and the environment from any adverse effects which may occur from toxic pollutants as defined in Section 307 of the Clean Water Act.
- iii) This permit may be modified or revoked and reissued to incorporate regulatory limitations established pursuant to 40 CFR Part 503.

e. Representative Sampling

- i) Samples and measurements taken as required within this permit shall be representative of the discharge. 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 the Department and with the written approval of the Director.
- ii) Composite sampling shall be conducted in one of the following manners;
 - (a) Continuous discharge - a minimum of one discrete aliquot collected every three hours,
 - (b) Less than 24 hours - a minimum of hourly discrete aliquots or a continuously drawn sample shall be collected during the discharge, or

- (c) Batch discharge - a minimum of three discrete aliquots shall be collected during each discharge.
 - (d) Composite samples shall be collected in one of the following manners:
 - (i) The volume of each aliquot must be proportional to either the waste stream flow at the time of sampling or the total waste stream flow since collection of the previous aliquot,
 - (ii) A number of equal volume aliquots taken at varying time intervals in proportion to flow,
 - (iii) A sample continuously collected in proportion to flow, and
 - (e) Where flow proportional sampling is infeasible or non-representative of the pollutant loadings, the Department may approve the use of time composite samples.
 - (f) Grab samples shall consist of a single aliquot collected over a time period not exceeding 15 minutes.
- iii) All sample preservation techniques shall conform to the methods adopted in NDEQ Title 119, Chapter 21 006 unless:
- (a) In the case of sludge samples, alternative techniques are specified in 40 CFR Part 503, or
 - (b) Other procedures are specified in this permit.
- iv) Flow Measurements
- Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be used to insure the accuracy and reliability of measurements. The devices shall be installed, calibrated and maintained to insure the accuracy of the measurements. The accepted capability shall be consistent with that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of +/- 10%. The amount of deviation shall be from the true discharge rates throughout the range of expected discharge volumes. Guidance can be obtained from the following references for the selection, installation, calibration and operation of acceptable flow measurement devices:
- (a) "Water Measurement Manual," U.S. Department of the Interior, Bureau of Reclamation, Third Edition, Revised Reprint, 2001.
(Available online at <http://www.usbr.gov/tsc/techreferences/mands/wmm/index.htm>)
 - (b) "NPDES Compliance Flow Measurement Manual," U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-77, September 1981, 147 pp.
(Available online at <http://www.epa.gov/nscep>, and enter 'NPDES Compliance Flow Measurement Manual, Publication MCD-77' in the search box)
- f. Changes of Loadings to Publicly Owned Treatment Works (POTWs)
- All POTWs must provide adequate notice to the Director of the following:
- i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to NDEQ Title 119, Chapter 26, if it were directly discharging those pollutants;
 - ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 - iii) For purposes of this paragraph, adequate notice shall include information on the quality and quantity of effluent introduced into the POTW, and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

20. Definitions

Administrator: The Administrator of the USEPA.

Aliquot: An individual sample having a minimum volume of 100 milliliters that is collected either manually or in an automatic sampling device.

Annually: Once every calendar year.

Authorized Representative: Individual or position designated the authorization to submit reports, notifications, or other information requested by the Director on behalf of the Owner under the circumstances that the authorization is made in writing by the Owner, the authorization specifies the individual or position who is duly authorized, and the authorization is submitted to the Director.

Bimonthly: Once every other month.

Biosolids: Sewage sludge that is used or disposed through land application, surface disposal, incineration, or disposal in a municipal solid waste landfill.

Biweekly: Once every other week.

Bypass: The intentional diversion of wastes from any portion of a treatment facility.

Certifying Official: See Section 13, Standard Conditions above.

Daily Average: An effluent limitation that cannot be exceeded and is calculated by averaging the monitoring results for any given pollutant parameter obtained during a 24-hour day.

Department: Nebraska Department of Environmental Quality.

Director: The Director of the Nebraska Department of Environmental Quality.

Industrial Discharge: Wastewater that originates from an industrial process and / or is noncontact cooling water and / or is boiler blowdown.

Industrial User: A source of indirect discharge (a pretreatment facility).

Monthly Average: An effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a calendar month.

Operator: A person (often the general contractor) designated by the owner who has day to day operational control and/or the ability to modify project plans and specifications related to the facility.

Owner: A person or party possessing the title of the land on which the activities will occur; or if the activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the activity.

Outfall: A discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged into Waters of the State.

Passive Discharge: A discharge from a POTW that occurs in the absence of an affirmative action and is not authorized by the NPDES permit (e.g. discharges due to a leaking valve, discharges from an overflow structure) and / or is a discharge from an overflow structure not designed as part of the POTW (e.g. discharges resulting from lagoon berm / dike breaches).

Publicly Owned Treatment Works (POTW): A treatment works as defined by Section 212 of the Clean Water Act (Public Law 100-4) which is owned by the state or municipality, excluding any sewers or other conveyances not leading to a facility providing treatment.

Semiannually: Twice every year.

Significant Industrial User (SIU): All industrial users subject to Categorical Pretreatment Standards or any industrial user that, unless exempted under Chapter 1, Section 105 of NDEQ Title 119, discharges an average of 25,000 gallons per day or more of process water; or contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW; or is designated as such by the Director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any National Pretreatment Standard or requirement.

Sludge: Any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect.

30-Day Average: An effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a calendar month.

Total Toxic Organics (TTO): The summation of all quantifiable values greater than 0.01 milligrams per liter (mg/l) for toxic organic compounds that may be identified elsewhere in this permit. (If this term has application in this permit, the list of toxic organic compounds will be identified, typically in the Limitations and Monitoring Section(s) and/or in an additional Appendix to this permit.)

Toxic Pollutant: Those pollutants or combination of pollutants, including disease causing agents, after discharge and upon exposure, ingestion, inhalation or assimilation into an organism, either directly from the environment or indirectly by ingestion through food chains will, on the basis of information available to the administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunction (including malfunctions in reproduction), or physical deformations in such organisms or their offspring.

Upset: 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, excluding such factors as operational error, improperly designed or inadequate treatment facilities, or improper operation and maintenance or lack thereof.

Volatile Organic Compounds (VOC): The summation of all quantifiable values greater than 0.01 milligrams per liter (mg/l) for volatile, toxic organic compounds that may be identified elsewhere in this permit. (See the definition for Total Toxic Organics above. In many instances, VOCs are defined as the volatile fraction of the TTO parameter. If the term VOC has application in this permit, the list of toxic organic compounds will be identified, typically in the Limitations and Monitoring Section(s) and/or in an additional Appendix to this permit.)

Waters of the State: All waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

Weekly Average: An effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a fixed calendar week. The permittee may start their week on any weekday but the weekday must remain fixed. The Department approval is required for any change of the starting day.

"X" Day Average: An effluent limitation defined as the maximum allowable "X" day average of consecutive monitoring results during any monitoring period where "X" is a number in the range of one to seven days.

21. Abbreviations

CFR: Code of Federal Regulations

kg/Day: Kilograms per Day

MGD: Million Gallons per Day

mg/L: Milligrams per Liter

NOI: Notice of Intent

NDEQ: Nebraska Department of Environmental Quality

NDEQ Title 115: Rules of Practice and Procedure

NDEQ Title 117: Nebraska Surface Water Quality Standards

NDEQ Title 118: Ground Water Quality Standards and Use Classification

NDEQ Title 119: Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System

NDEQ Title 126: Rules and Regulations Pertaining to the Management of Wastes

NDEQ Title 132: Integrated Solid Waste Management Regulations

NPDES: National Pollutant Discharge Elimination System

NPP: Nebraska Pretreatment Program

POTW: Publicly Owned Treatment Works

µg/L: Micrograms per Liter

WWTF: Wastewater Treatment Facility

Appendix B – List of MS4s in the State of Nebraska

MS4		Contact information
Traditional MS4s		
Cities	City of Beatrice	James Burroughs City Engineer 205 N 4 th St. Beatrice, NE 68310 (402) 228-5208 jburroughs@beatrice.ne.gov
	City of Bellevue	Dan Berlowitz City Administrator 210 W. Mission Ave. Bellevue, NE 68005 (402) 293-3021 dan.berlowitz@bellevue.net
	Village of Boys Town	Scott Kardell Director of Facilities 355 McBreen Circle Boys Town, NE 68010 (402) 498-1138
	City of Columbus	Michael Middendorf Engineering Department 2424 14 th Street Columbus, NE 68601 (402) 562-4237 OR 562-4235 mmidden@columbusne.us
	City of Dakota City	See South Sioux City
	City of Fremont	Justin Zetterman Public Works Department 400 E. Military Avenue, 3rd Floor Fremont, NE 68025 (402) 727-2636 justin.zetterman@fremontne.gov
	City of Grand Island	Terry A. Brown Assistant Public Works Director 100 E. First Street Grand Island, NE 68801-1968 (308) 385-5444 Ext. 260
	City of Hastings	Deb Bergman Engineering Department 220 N. Hastings Ave. Hastings, NE 68901 (402)461-2339 dbergman@cityofhastings.org
	City of Kearney	Dan Lillis Engineering Department 1919 15 th Avenue Kearney, NE 68845 (308) 233-3273 dlillis@kearneygov.org
	City of La Vista	John M. Kottmann, P.E. City Engineer 9900 Portal Road City of La Vista, NE 68128 (402) 331-8927 jkottmann@cityoflavista.org
	City of Lexington	Bill Brecks Building Inspection/Planning/Zoning PO Box 70 Lexington, NE 68850 (308) 324-2341 bbrecks@cityoflex.com
	City of Lincoln	Ben Higgins Watershed Management 555 South 10 th Street, Suite 203 Lincoln, NE 68508 (402) 441-7589 bhiggins@lincoln.ne.gov
City of Norfolk	Trent Howard Prevention Bureau 127 N. 1 st Street Norfolk, NE 68701 (402) 844-2060 thoward@ci.norfolk.ne.us	

	City of North Platte	Thomas Werblow North Platte Engineering Dept. 211 West Third Street North Platte, NE 69101	(308) 535-6724 WerblowTC@ci.north-platte.ne.us
	City of Omaha	James Kee, Jr. City of Omaha – Environmental Services Stormwater Program 5600 S. 10 th Street Omaha, NE 68107	(402) 444-3915 Ext. 238 jkee@ci.omaha.ne.us
	City of Papillion	Marty Leming Public Works Director 9909 Portal Rd Papillion, NE 68046	(402) 597-2043 mleming@papillion.org
	City of Ralston	Dan Freshman Public Works Department 5500 S. 77 th Street Ralston, NE 68127	(402) 331-6677 Ext. 1310 dfreshman@cityofralston.com
	City of Scottsbluff	Leann Sato City of Scottsbluff – Stormwater Program 2525 Circle Drive Scottsbluff, NE 69361	(308) 630-8011 lsato@scottsbluff.org
	City of South Sioux City	Derek Morris Public Works Department 125 East 26 th Street South Sioux City, NE 68776	(402) 494-7534 stormwater@southsiouxcity.org
Counties	Dakota County	See South Sioux City	
	Douglas County	Kent Holm Environmental Services 3015 Menke Circle Omaha, NE 68134	(402) 444-6181 kent.holm@douglascounty-ne.gov
	Sarpy County	Sarpy County Administration 1210 Golden Gate Drive, Suite 1126 Papillion, NE 68046	(402) 593-2347 markw@sarpy.com
Non-Traditional MS4s			
Nebraska Department of Roads	Not applicable		
NDOR is a permitted MS4 for properties or locations owned by NDOR within all regulated (permitted) MS4s			
University of Nebraska - Lincoln	Brenda K. Osthus, Director Environmental Health & Safety University of Nebraska-Lincoln 3630 East Campus Loop Lincoln, NE 68583-0824		(402) 472-2925
Offutt Air Force Base	Andrew Heuerman 55 CES/CEVC Environmental Management Flight/ Storm Water 106 Peacekeeper Drive, STE 2N3 Offutt AFB, NE 68113-4019		402-232-5876 Andrew.heuerman@us.af.mil