CERTIFIED MAIL – RETURN RECEIPT REQUESTED

January 6, 2022

Marianne Schweers, Owner
Eagle Ranch Pistachios
7288 Hwy 54-70
Alamogordo, NM 88310

RE: Draft Discharge Permit, DP-1917, Eagle Ranch Pistachios

Dear Marianne Schweers:

The New Mexico Environment Department (NMED) hereby provides notice to you of the proposed approval of Ground Water Discharge Permit, DP-1917, (copy enclosed), pursuant to Subsection H of 20.6.2.3108 NMAC. NMED will publish notice of the availability of the draft Discharge Permit in the near future for public review and comment and will forward a copy of that notice to you.

Prior to making a final ruling on the proposed Discharge Permit, NMED will allow 30 days from the date the public notice is published in the newspaper for any interested party, including the Discharge Permit applicant, i.e., yourself, to submit written comments and/or a request a public hearing. A hearing request shall set forth the reasons why a hearing is requested. NMED will hold a hearing in response to a timely hearing request if the NMED Secretary determines there is substantial public interest in the proposed Discharge Permit.

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

Please submit written comments or a request for hearing to my attention at the address above or via email to Jaben.richards@state.nm.us. If NMED does not receive written comments or a request for hearing during the public comment period, the draft Discharge Permit will become final.

Thank you for your cooperation during the review process. Feel free to contact me with any questions at 505-660-8376 or Jaben.richards@state.nm.us.

Sincerely,

Jaben Richards

Digitally signed by Jaben Richards
Date: 2022.01.06 21:26:43 -07'00'

Jaben Richards
Team Leader

Enc: Draft Discharge Permit, DP-1917

cc: Nancy McDuffie, GWQB ACS Manager
Johnny Horton JONTEL Septic Inc., pam.jontel@gmail.com
ACS Reading File

NEW MEXICO

ENVIRONMENT DEPARTMENT

Ground Water Quality Bureau

1190 Saint Francis Drive / PO Box 5469
Santa Fe, NM 87502-5469
Phone (505) 827-2900 Fax (505) 827-2965
www.env.nm.gov

Draft: January 6, 2022

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

Facility Name:	Eagle Ranch Pistachios, LLC
Discharge Permit No:	DP-1917
Permittee Name:	Marianne Schweers
Facility Manager/Operator:	George R. Schweers
Mailing Address:	7288 Hwy 54-70 Alamogordo, NM 88310
Facility Location:	7288 Hwy 54-70 Section 21, Township 15S, Range 10E
County:	Otero
Permitting Action:	New
Source Classification:	Agriculture – Crop
Permit Issuance Date:	DATE
Permit Expiration Date:	DATE
NMED Permit Contact:	Jaben Richards
Telephone Number/Email:	(505) 660-8376/Jaben.richards@state.nm.us

JUSTIN BALL
Acting Chief, Ground Water Quality Bureau

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PART A GENERAL INFORMATION

A100 Introduction

A. The New Mexico Environment Department (NMED) issues this Discharge Permit, **DP-1917,** to Marianne Schweers (Permittee) pursuant to the New Mexico Water Quality Act (WQA), NMSA 1978, §§ 74-6-1 through 74-6-17, and the New Mexico Ground and Surface Water Protection Regulations, 20.6.2 NMAC. NMED's purpose in issuing this Discharge Permit is to control the discharge of water contaminants from Eagle Ranch Pistachios (Facility) for the protection of groundwater and those segments of surface water gaining from groundwater inflow, for present and potential future use as domestic and agricultural water supply and other uses, and to protect public health.

B. The Permittee is discharging up to 375 gallons per day (gpd) of effluent from Eagle Ranch Pistachios, LLC. This discharge or leachate may move directly or indirectly into groundwater of the State of New Mexico which has an existing concentration of 10,000 milligrams per liter (mg/L) or less of total dissolved solids (TDS) within the meaning of 20.6.2.3104 and 20.6.2.3101.A NMAC. These discharges may contain water contaminants or toxic pollutants elevated above the standards of 20.6.2.3103 NMAC in compliance with the terms and conditions of this Discharge Permit.

C. In issuing this Discharge Permit, NMED has determined that the Permittee has met the requirements of 20.6.2.3109.C NMAC. Pursuant to Section 20.6.2.3104 NMAC, it is the Permittee's responsibility to comply with the terms and conditions of this Discharge Permit; failure to do so may result in enforcement action by NMED (20.6.2.1220 NMAC).

A101 Terms of Permit Issuance

A. **Permit Duration** - Pursuant to WQA 74-6-5(I) and 20.6.2.3109.H NMAC, the term of a Discharge Permit shall be for the fixed term of **five years** from the effective date of the Discharge Permit.

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

C. **Permit Renewal** - To renew this Discharge Permit, the Permittee shall submit, in accordance with Section G of 20.6.2 NMAC, an application and any associated fees for renewal, renewal and modification, or renewal for closure at least 120 days before the discharge permit expiration date, unless closure of the facility is approved by NMED before that date.

D. **Transfer of Ownership** - This Discharge Permit is being issued to Marianne Schweers as identified in **Section A100** above. In accordance with Section 20.6.2.3111 NMAC, the Permittee, any listed owner(s) of record, and any [other] holder(s) of an expired discharge permit are responsible for complying with the conditions listed herein. If during the duration of this Discharge Permit a change in the list of responsible parties is required, transfer of ownership shall be completed in accordance with 20.6.2.3111(A).

A102 Applicable Regulations

A. **Scope** - This Discharge Permit applies solely for the regulation of process wastewater or stormwater generated from facility operations and does not include regulation of domestic wastewater at the facility. Domestic wastewater generated at the facility is treated or disposed of pursuant to 20.7.3 NMAC.

B. The discharge from the facility is not subject to any of the exemptions of 20.6.2.3105 NMAC.

C. Groundwater quality as observed in on-site wells is subject to the criteria of 20.6.2.3101 and 20.6.2.3103 NMAC unless otherwise specified in this Discharge Permit.

D. Complying with the applicable requirements of 20.6.2 NMAC does not relieve a facility's owner, operator or Permittee from complying with the requirements of other applicable local, state and federal regulations or laws.

A103 Facility: Physical Description

A. This facility is located at 7288, Hwy 54-70, approximately six miles north of Alamogordo, in Section 21, Township 15S, Range 10E, in Otero County.

B. This facility is comprised of the following wastewater system components as identified in the application dated September 10, 2020 and the administrative record as of the effective date of this Discharge Permit:

1. Wastewater storage:

    a. **Wastewater Pool** – an earthen impoundment, 6' diameter by 10' deep with a capacity of approximately 2,115 gallons. Constructed in 1988, Wastewater Pool has historically been used to store wastewater for disposal by infiltration and evaporation. Wastewater Pool is located approximately 30.5' west of the Salt/Roast building wash-room.

    b. **Tank** – a 10,000-gallon fiberglass tank for storage of wastewater before surface disposal. Tank will replace the Wastewater Pool. Tank will be fitted with a high-water

alarm and a valve that will connect to the spray truck for application to the surface disposal area for dust control.

2. Fields or tracts within the surface disposal area:

   a. **Dirt Roads** – *Dirt Roads covering approximately 3 acres and located throughout the pistachio orchard. The Dirt Roads have not received wastewater discharge to date. Wastewater will be applied to the Dirt Roads for dust control by a spray truck.*

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

A104 Facility: Documented Hydrogeologic Conditions

A. Groundwater most likely to be affected at this facility is at a depth of approximately 260 feet and had a total dissolved solids concentration of 1,210 milligrams per liter.

PART B DISCHARGE REQUIREMENTS

B100 Facility: Authorized Discharge

A. NMED authorizes the Permittee to discharge water contaminants as part of facility operations subject to the following requirements:

1. The Permittee is authorized to discharge up to 375 gpd of food processing wastewater from the production area of a pistachio processing facility. Wastewater from a reverse osmosis reject stream and washing room flows from the salt/roasting building into floor drains to a PVC pipe then to a fiberglass tank for storage. Wastewater will be used for dust control.
2. The Permittee is authorized to use the following tanks for the following purposes in accordance with 20.6.2.3107.A NMAC, 20.6.2.3109.C NMAC:
   a. Tank – a 10,000 gallon fiberglass tank, authorized to receive wastewater for storage prior to use for dust control. This Tank ***must be*** installed and connected to the wastewater system before any discharge occurs under this Discharge Permit.
3. The Wastewater Pool is ***not authorized*** to receive wastewater after the effective date of this Discharge Permit.
4. The Permittee is authorized to apply wastewater to roads within the orchard in accordance with 20.6.2.3109.C NMAC. The roads are in total 3 acres.
   b. Dirt Roads – are authorized to receive wastewater and *have not* received wastewater as of the effective date of this Discharge Permit.

B. This Discharge Permit authorizes only those discharges specified herein. Any unauthorized discharges, such as spills or leaks must be reported to NMED in a corrective action conducted pursuant to 20.6.2.1203 NMAC.

B101 Existing System Controls

A. The permit requires the following existing system controls at this facility as described below:

1. **Flow Meter** - The facility measures the volume of wastewater discharged from the production area:
    a. **Supply meter** – located on the supply well for the salting/roasting building to measure the volume of all fresh water contributing to the wastewater discharged from the production area; providing an estimate of the volume of wastewater generated from pistachio nut processing and reverse osmosis reject water [20.6.2.3107.A NMAC]

B102 Conditions for Operation

A. NMED has reviewed the permit application for the proposed facility and has determined that the provisions of the applicable groundwater quality standards will be met in accordance with this Discharge Permit. General conditions for all Discharge Permits issued by the Ground Water Quality Bureau pursuant to NMAC 20.6.2 are summarized on **Table B1**. Unless otherwise specified in Parts A or B of this Discharge Permit, both the general conditions for a facility discharge permit (as listed in this part) and facility-specific conditions as listed are mandated to assure continued compliance.

Table B1
General Discharge Permit Conditions:

Engineering and Surveying
a) Within 30 days of the effective date of this Discharge Permit (**by Date**), the Permittee shall post signage in both English and Spanish at the facility entrance and other areas where there is potential for public contact with wastewater (i.e. land application area or surface disposal area) in accordance with the following: • The signage shall state: "Notice: wastewater at the facility is not potable and Aviso: el agua residual de la fabrica no es potable"-OR- "Notice: waste disposal area, keep out and Aviso: area de disposicion, no entrar.' posted at the land application area and every 500 feet along the land application boundary. The Permittee shall submit photographic evidence of installation the next scheduled Quarterly Monitoring Report.
b) Within 180 days following the effective date of this Discharge Permit (by DATE), the Permittee shall submit an up-to-date diagram of the layout of entire facility to NMED. The diagram shall include the following elements: • north arrow

Table B1
General Discharge Permit Conditions:

- effective date of the diagram
- overall facility layout
- sumps
- the roads that received wastewater for dust control
- Supply meter measuring the volume of all fresh water contributing to the wastewater discharges to the Tank
- wastewater sampling location
- septic tanks and leachfields

Any element that cannot be shown due to its location inside of existing structures, or because it is buried without surface identification, shall be on the diagram in a schematic format and identified as such. [20.6.2.3106.C NMAC, 20.6.2.3107.A NMAC

Operations and Maintenance

c) Operate in a manner such that standards and requirements of 20.6.2.3101 and 20.6.2.3103 NMAC are not violated.

d) Maintain all signage indicating that the wastewater at the facility is not potable. All signage shall be printed in English and Spanish and shall remain visible and legible.

e) Repair or replace compromised pipe(s) or fixture(s) within 72 hours of discovery.

Inspection and Monitoring

f) Visually inspect all facility pipes and fixtures on a weekly basis for evidence of leaks or failure. [20.6.2.3107 NMAC]

Recordkeeping and Reporting

g) Maintain written records at the facility of any inspection(s), repairs and maintenance conducted on facility infrastructure as related the wastewater management system.

h) Conduct the monitoring, reporting, and other requirements in accordance with the monitoring requirements of this Discharge Permit. [20.6.2.3107.A NMAC, 20.6.2.3109.C NMAC]

i) Unless otherwise specified by this Discharge Permit, or approved in writing by NMED, the Permittee shall use sampling and analytical techniques that conform with the references listed in 20.6.2.3107.B NMAC

j) Unless otherwise identified in this Discharge Permit, submit monitoring reports to NMED annually according to the following schedule: [Subsection A of 20.6.2.3107 NMAC]

- January 1 through December 31 – report by **February 1**

k) Retain required records for a minimum period of five years from the date of any sample collection, measurement, report or application in accordance with 20.6.2.3107 NMAC, 74-6-5 WQA.

B. **Tank(s) -** The Permittee shall manage all tanks at the facility in accordance with 20.6.2.3107 and 20.6.2.3109 NMAC and the conditions summarized in **Table B2** below.

Table B2
Tank(s)

Engineering, Surveying and Construction
a) Within 30 days of the effective date of this Discharge Permit (by **DATE**) install the Tank to begin discharge.
Operations and Maintenance
b) The Tank shall be designed to contain the maximum daily discharge volume authorized by the Discharge Permit. The design shall accommodate for periods when surface disposal is not feasible. c) The Permittee shall operate and maintain the wastewater tank [system] for the purpose of storing and managing wastewater at the facility. In order to maintain the required capacity, solids shall be removed from the tank [system] as needed. Solids shall be stored and transported off-site in accordance with the conditions of this Discharge Permit.
Inspection and Monitoring
d) Visually inspect Tank on a monthly basis to ensure proper condition. e) Visually inspect pipes and fixtures on a weekly basis for evidence of leaks or failure. In areas where pipes and fixtures cannot be visually inspected because they are buried, visually inspect the area directly surrounding the features for evidence of leaks or failure (e.g., saturated surface soil, surfacing wastewater, etc.). f) The Permittee shall collect composite wastewater samples from the Tank on a monthly basis during the processing season. The wastewater sampling shall be performed according to the following procedure: • Wastewater samples shall be collected from the Tank one hour after the start of production, three hours after the start of production, and five hours after the start of production; • A single composite sample shall be created by combining equal volumes of the three grab samples; and • The composite sample shall be analyzed for NO3-N, TKN, TDS, Cl and pH. The Permittee shall record the sampling date, time production started, time of the first grab sample, time of second grab sample, time of third grab sample, and time production ended on a Wastewater Sampling Log (copy enclosed). The Wastewater Sampling Log, analytical results and laboratory reports shall be submitted to NMED in the **Annual Monitoring Report**.
Recordkeeping and Reporting
g) Within 30 days of the effective date of this Discharge Permit (by **DATE**), submit a Completion Report verifying infrastructure to the Tank. The Completion Report shall include: record drawings, final specifications, and final capacity calculations. h) Report any unauthorized discharges to NMED pursuant to 20.6.2.1203 NMAC. i) Unless otherwise specified in this Discharge Permit, submit all monitoring information in accordance with the general reporting schedule listed in Table B1 of this Discharge Permit.

Table B2
Tank(s)

j) Notify NMED within 24 hours of discovery of any observed tank condition(s) that may impact the structural integrity of the tank or may result in an unauthorized discharge. [20.6.2.3107 NMAC]
k) Maintain written records at the facility of all facility inspections including repairs and replacements.

C. **Surface Disposal Area Management -** The Permittee shall manage all land application areas at the facility in accordance with 20.6.2.3107 and 20.6.2.3109 NMAC and the conditions summarized in **Table B3** below.

Table B3
Surface Disposal Area Management

Engineering and Surveying
a) None required.
Operations and Maintenance
b) The Permittee shall discharge wastewater to the roads such that the amount of total nitrogen discharged does not exceed 200 pounds per acre in any 12-month period. Nitrogen content shall not be adjusted to account for volatilization or mineralization processes. Wastewater shall be distributed evenly throughout the entire disposal area. Excessive ponding shall be prevented.
Inspection and Monitoring
c) None required.
Recordkeeping and Reporting
d) The Permittee shall complete Surface Disposal Data Sheets (SDDS; copy enclosed) on a monthly basis that document the amount of nitrogen applied to the roads during the most recent 12 months. The SDDS shall reflect the total nitrogen concentration from the most recent wastewater analysis and the measured discharge volumes to the surface disposal area for each month. The SDDS shall be completed with information above or shall include a statement that wastewater disposal did not occur. The SDDS shall be submitted to NMED in the **Annual Monitoring Report.**

D. **Solids Management -** The Permittee shall mange all solids at the facility in accordance with 20.6.2.3107 and 20.6.2.3109 NMAC and the conditions summarized in **Table B4** below.

Table B4
Solids Management

Engineering and Surveying
a) None required.
Operations and Maintenance
b) The Permittee shall store and remove solids separated from the wastewater in a manner and frequency necessary to prevent the contamination of groundwater. Solids removed from the Tank shall be contained, transported, and disposed of in accordance with all local, state, and federal

Table B4
Solids Management

regulations. **Disposal of solids on the surface disposal area is prohibited.** Solids shall be contained in a waste disposal bin prior to being hauled offsite for final disposal.
Inspection and Monitoring
c) The Permittee shall inspect the Tank on a quarterly basis and clean as needed to prevent failure. The Permittee shall maintain a record of Tank inspections, repairs and cleanings. Solids generated in the processing area shall be stored and transported off-site in accordance with the conditions of this Discharge Permit.
Recordkeeping and Reporting
d) The Permittee shall, at all times, have the log of Tank inspections, repairs, and cleanings available for NMED review.

E. **Discharge Metering** – Pursuant to 20.6.2.3107.A and 20.6.2.3109.C, the Permittee shall employ a flow metering system that uses flow measurement devices (flow meters) to measure the volume(s) of 1) wastewater discharged from the production area and 2) wastewater transferred and land applied at the facility. All flow meters employed at the facility shall be managed in accordance with the conditions listed in **Table B5** below.

Table B5
Discharge Metering

Engineering and Surveying
a) None required.
Operations and Maintenance
b) All flow meters shall be calibrated in accordance with the manufacturer's requirements prior to installation or reinstallation following repair.
Inspection and Monitoring
c) Using flow meter installed on the fresh water supply line (**Supply Meter**), measure the volume of all sources contributing to the wastewater discharged to the impoundment(s) authorized to contain wastewater. Readings from flow meter(s) on water supply lines are used to estimate wastewater volumes discharged to wastewater system without adjustments or deductions to the meter readings. The monthly meter readings, estimated monthly and average daily discharge volumes, and notes (i.e a clear designation of the well, the date of the meter reading, a decimal point in the number, and the units of the number) shall be submitted to NMED in the Annual Monitoring Report.
d) The Permittee shall provide evidence of the volume of the tank truck and count the number of loads applied to the dirt roads to determine the volume of wastewater applied. Partial loads shall be measured via a site gauge, dipstick, or other approved method.
e) Visually inspect flow meters on a weekly basis for evidence of malfunction. If a visual inspection indicates a flow meter is not functioning to measure flow, the Permittee shall initiate repair or replacement of the meter within 30 days of discovery.

Table B5
Discharge Metering

Recordkeeping and Reporting
f) Maintain copies of the manufacturer's certificate of calibration and the manufacturer's recommended maintenance schedule at the facility.
g) Record of meter readings at intervals not to exceed monthly. The average daily discharge volume for each recording interval shall be calculated by dividing the difference between the meter readings by the number of days between meter readings.
h) Record meter readings (without adjustments or deductions) and submit in the **Annual Monitoring Report**. Include the date, time and units of each measurement, and calculations for the average daily volumes of wastewater discharged from the processing area, reported in gallons per day.
i) For meters requiring repair, submit a report to NMED with the subsequent monitoring report following the repair that includes a description of the malfunction, a statement verifying the repair, and a copy of the manufacturer's or repairer's certificate of calibration.
j) For meters requiring replacement, submit a report to NMED with the subsequent monitoring report following the replacement that includes plans for the device, a copy of the manufacturer's certificate of calibration, and a copy of the manufacturer's recommended maintenance schedule.
k) The Permittee shall maintain a log of repairs. The log shall be available, at all times, for NMED inspection.

B103 Facility: Conditions for Closure

A. Upon closure of the facility, the Permittee shall perform the following closure measures:

B. For permanent closure, the following closure actions shall be completed upon permanent cessation of wastewater discharge:

1. Within 60 days of ceasing discharging to the tank(s), the line leading to the tank(s) shall be plugged so that a discharge can no longer occur.
2. Within 60 days of ceasing discharging to the tank(s), wastewater shall be evaporated or drained from the tank and any other wastewater system components and disposed of in accordance with all local, state, and federal regulations. OR discharged from the tank and any other wastewater system components to the surface disposal area, as authorized by this Discharge Permit. The discharge of accumulated solids (sludge) from the tank to the surface disposal area is prohibited.
3. Within 90 days of ceasing discharging to the tank(s), the Permittee shall submit a sludge removal and disposal plan to NMED for approval. The Permittee shall initiate implementation of the plan within 30 days following approval by NMED. The sludge removal and disposal plan shall include the following information.
    a) The estimated volume and dry weight of sludge to be removed and disposed, including measurements and calculations.

b) Analytical results for samples of the sludge taken from the tank for TKN, NO3-N, percent total solids, and any other parameters tested (reported in mg/kg, dry weight basis).

c) The method(s) of sludge removal from the tank(s).

d) The method(s) of disposal for all of the sludge (and its contents) removed from the tank(s). The method(s) shall comply with all local, state and federal regulations, including 40 CFR Part 503. Note: A proposal that includes the surface disposal of sludge may be subject to Ground Water Discharge Permitting requirements pursuant to 20.6.2.3104 NMAC that are separate from the requirements of this Discharge Permit.

e) A schedule for completion of sludge removal and disposal not to exceed two years from the date discharge to the tank(s) ceased.

4. Within one year following completion of the sludge removal and disposal, the Permittee shall complete the following closure measures.

a) Remove all lines leading to and from the tank(s), or permanently plug and abandon them in place.

b) Remove or demolish any other wastewater system components and re-grade area with suitable fill to blend with surface topography, promote positive drainage and prevent ponding.

c) Re-grade the tank site to blend with surface topography, promote positive drainage and prevent ponding.

5. When all closure and post-closure requirements have been met, the Permittee may request to terminate the Discharge Permit [20.6.2.3109 NMAC, 20.6.2.3107. NMAC].

B104 Facility: Contingency Plan

A. In the event NMED or the Permittee identifies any failures of the Discharge Permit or system not specifically noted herein, NMED may require the Permittee to develop for NMED approval a contingency or corrective action plan and schedule to cope with the failure(s) [20.6.2.3107.A(10) NMAC].

B. Facility conditions that will invariably require Permittee action under one or more contingency plans include:

1. **Exceedance of groundwater quality standards** - In the event that a groundwater quality standard identified in 20.6.2.3103 NMAC is exceeded; the total nitrogen concentration in groundwater is greater than 10 mg/L; or a toxic pollutant (defined in 20.6.2.7.T NMAC) is present in groundwater during the term of this Discharge Permit, upon closure of the facility or during the implementation of post-closure requirements, the Permittee shall propose measures to mitigate damage from the discharge including, at a minimum, source control measures and a completion schedule by submitting a corrective action plan to NMED for approval.

2. **Exceedance(s) of permitted maximum daily discharge volume** - The maximum daily discharge volume authorized by this Discharge Permit is exceeded by more than ten percent for any four average daily discharge volumes within any 12-week period the Permittee shall submit a corrective action plan to reduce the discharge volume for NMED approval.

3. **Exceedance(s) of Nitrogen Loading Limits** - In the event that the SDDS show that the amount of nitrogen in wastewater applied to [any zone within] the surface disposal area in any 12-month period exceeds 200 pounds per acre, the Permittee shall propose the reduction of nitrogen loading to the surface disposal area by submitting a corrective action plan to NMED for approval. The plan shall include a schedule for completion of corrective actions and shall be submitted within 90 days following the end of the monitoring period in which the exceedance occurred. The Permittee shall initiate implementation of the plan following approval by NMED.

4. **Insufficient tank capacity** – In the event a survey, capacity calculations, or settled solids thickness measurements indicate an existing tank is not capable of meeting the capacity the Permittee shall submit a corrective action plan for NMED approval.

   The plan may include, but is not limited to, proposals for constructing an additional tanks, reducing the discharge volume, removing accumulated solids, changing wastewater management practices, or installing an advanced treatment system. The corrective action plan shall include a schedule for implementation through completion of corrective actions. The corrective action plan schedule shall propose completion not to exceed one year from the submittal date of the initial corrective action plan. The Permittee shall initiate implementation of the plan following approval by NMED. The plan shall include the method of removal, and locations and methods for storage and disposal (or land application, if authorized) of the solids.

5. **Spills, leaks, unauthorized discharge** – Any spill or release that is not authorized under this Discharge Permit. the Permittee shall comply with the requirements of 20.6.2.1203 NMAC, and shall submit to NMED all information or documentation required by the applicable portions of Sections 20.6.2.1203 NMAC.

C. The Permittee may be required to abate water pollution pursuant to 20.6.2.4000 through 20.6.2.4115 NMAC, should the corrective action plan not result in compliance with the standards and requirements set forth in 20.6.2.4103 NMAC within 180 days of confirmation of groundwater contamination.

PART C GENERAL TERMS AND CONDITIONS

C100 Legal

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

B. Pursuant to 20.6.2.3109 NMAC, NMED reserves the right to require a Discharge Permit Modification in the event NMED determines that the requirements of 20.6.2 NMAC are being or may be violated or the standards of 20.6.2.3103 NMAC are being or may be violated. This may include a determination that structural controls and/or management practices approved under this Discharge Permit are not protective of groundwater quality, and NMED may require more stringent actions to protect groundwater quality. NMED may require the Permittee to implement abatement of water pollution and remediate groundwater quality.

C. Any violation of the requirements and conditions of this Discharge Permit, including any failure to allow NMED staff to enter and inspect records or facilities, or any refusal or failure to provide NMED with records or information, may subject the Permittee to a civil enforcement action. Pursuant to WQA 74-6-10(A) and (B), such action may include a compliance order requiring compliance immediately or in a specified time, assessing a civil penalty, modifying or terminating the Discharge Permit, or any combination of the foregoing; or an action in district court seeking injunctive relief, civil penalties, or both. Pursuant to WQA 74-6-10(C) and 74-6-10.1, civil penalties of up to $15,000 per day of noncompliance may be assessed for each violation of the WQA 74-6-5, the 20.6.2 NMAC, or this Discharge Permit, and civil penalties of up to $10,000 per day of noncompliance may be assessed for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision. In any action to enforce this Discharge Permit, the Permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Discharge Permit. [74-6-10 WQA, 74-6-10.1 WQA]

D. Pursuant to WQA 74-6-10.2(A-F), NMED may assess criminal penalties for any person who knowingly violates or knowingly causes or allows another person to:

1. Make any false material statement, representation, certification or omission of material fact in an application, record, report, plan or other document filed, submitted or required to be maintained under the WQA;
2. Falsify, tamper with or render inaccurate any monitoring device, method or record required to be maintained under the WQA; or
3. Fail to monitor, sample or report as required by a permit issued pursuant to a state or federal law or regulation, is subject to felony charges and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

E. The Permittee shall notify the proposed transferee in writing of the existence of this Discharge Permit and include a copy of this Discharge Permit with the notice in accordance with 20.6.2.3111 NMAC, prior to the transfer of any ownership, control, or possession of this permitted facility or any portion thereof. The transferee(s) shall notify NMED, in writing, of the date of transfer of ownership and provide contact information for the new owner(s) pursuant to Subsection B of 20.6.2.3111 NMAC. Submit to NMED notification of the transfer within 30 days of the ownership transfer date. [20.6.2.3111 NMAC]

F. Pursuant to WQA 74-6-5(o), the Permittee has a right to appeal the conditions and requirements as outlined in this Discharge Permit through filing a petition for review before

the WQCC. Such petition shall be in writing to the WQCC within thirty (30) days of the receipt of this Discharge Permit. Unless a timely petition for review is made, the decision of NMED shall be final and not subject to judicial review.

C101 General Inspection and Entry Requirements

A. Nothing in this Discharge Permit limits in any way, the inspection and entry authority of NMED under the WQA, 20.6.2 NMAC, or any other applicable law or regulation. [20.6.2.3107 NMAC, 74-6-9(B) & (E) WQA]

B. The Permittee shall allow the Secretary or an authorized representative, upon the presentation of credentials, to [20.6.2.3107.D NMAC, 74-6-9(B) & (E) WQA]:

1. Enter at regular business hours or at other reasonable times upon the Permittee's premises or other location where records must be kept under the conditions of this Discharge Permit, 20.6.2 NMAC, or any other applicable law or regulation.
2. Inspect and copy, during regular business hours or at other reasonable times, any records required to be kept under the conditions of this Discharge Permit, 20.6.2 NMAC, or any other applicable law or regulation.
3. Inspect, at regular business hours or at other reasonable times, any facility, equipment (including monitoring and control equipment or treatment works), practices or operations regulated or required under this Discharge Permit, 20.6.2 NMAC, or any other applicable law or regulation.
4. Sample or monitor, at reasonable times for the purpose of assuring compliance with this Discharge Permit or as otherwise authorized by the WQA, any effluent, water contaminant, or receiving water at any location before or after discharge.

C102 General Record Keeping and Reporting Requirements

A. The Permittee shall maintain a written record of the following:

1. Amount of wastewater, effluent, leachate or other wastes discharged pursuant to this Discharge Permit. [20.6.2.3107.A NMAC]
2. Operation, maintenance, and repair of all facilities/equipment used to treat, store or dispose of wastewater; to measure flow rates, to monitor water quality, or to collect other data required by this Discharge Permit. Per 20.6.2.3107.A NMAC, this record shall include:
    a. Repair, replacement or calibration of any monitoring equipment
    b. Repair or replacement of any equipment used in the Permittee's waste or wastewater treatment and disposal system.
3. Any spills, seeps, and/or leaks of effluent, and of leachate and/or process fluids not authorized by this Discharge Permit. [20.6.2.3107.A NMAC]

B. The Permittee shall maintain at its facility a written record of all data and information related to field measurements, sampling, and analysis conducted pursuant to this Discharge Permit. The following information shall be recorded and shall be made available to NMED upon request:

1. The dates, exact place and times of sampling or field measurements;
2. The name and job title of the individuals who performed each sample collection or field measurement;
3. The date of the analysis of each sample;
4. The name and address of the laboratory and the name and job title of the person that performed the analysis of each sample;
5. The analytical technique or method used to analyze each sample or take each field measurement;
6. The results of each analysis or field measurement, including raw data;
7. The results of any split sampling, spikes or repeat sampling; and
8. A description of the quality assurance (QA) and quality control (QC) procedures used.

C. The Permittee shall furnish to NMED, within a reasonable time, any documents or other information which it may request to determine whether cause exists for modifying, terminating and/or renewing this Discharge Permit or to determine compliance with this Discharge Permit. The Permittee shall also furnish to NMED, upon request, copies of documents required to be kept by this Discharge Permit. [20.6.2.3107.D NMAC, 74-6-9(B) & (E) WQA]

C103 <u>Modifications and/or Amendments</u>

A. The Permittee shall notify NMED of any changes to the Permittee's wastewater treatment and disposal system, including any changes in the wastewater flow rate or the volume of wastewater storage, or of any other changes to operations or processes that would result in any significant change in the discharge of water contaminants. The Permittee shall obtain NMED's approval, as a modification to this Discharge Permit pursuant to Subsections E, F, or G of 20.6.2.3109 NMAC, prior to any increase in the quantity discharged, or any increase in the concentration of water contaminants discharged, above those levels approved in this Discharge Permit [20.6.2.3107.C NMAC].

B. The Permittee shall file plans and specifications with NMED for the construction of a wastewater system and for proposed changes that will change substantially the quantity or quality of the discharge from the system. The Permittee shall file plans and specifications prior to the commencement of construction. Changes to the wastewater system having a minor effect on the character of the discharge shall be reported as of January 1 and June 30 of each year to NMED. [20.6.2.1202 NMAC]

Part D MISCELLANEOUS

D100 Acronyms

CL	chloride
CQA	construction quality assurance
CQC	construction quality control
DP	discharge permit
FEMA	Federal Emergency Management Administration
FIRM	flood insurance rate map
gpd	gallon per day
LADS	land application data sheet(s)
mg/L	milligram per liter
mL	milliliters
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMSA	New Mexico Statutes Annotated
NO_3-N	nitrate as nitrogen
SDDS	surface disposal data sheet(s)
TDS	total dissolved solids
TKN	total Kjeldahl nitrogen
WQA	New Mexico Water Quality Act
WQCC	Water Quality Control Commission