Permit No: NDP000080
Effective Date: January 1, 2027
Expiration Date: December 31, 2031

AUTHORIZATION TO DISCHARGE UNDER THE

NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33.1-16-01.1 of the North Dakota Department of Environmental Quality rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code,

Bobcat Company – Bobcat Cylinders
2101 11th Street North
Wahpeton, ND 58075

is authorized to discharge from its facility in Wahpeton, North Dakota

to the City of Wahpeton Publicly Owned Treatment Works

provided all the conditions of this permit are met.

This permit and the authorization to discharge shall expire at midnight,

December 31, 2031.

Signed this _____ day of _____, _____.

_____
Marty Haroldson
Director
Division of Water Quality

BP 2025.02.05

DRAFT

This page is intentionally left blank

DRAFT

## TABLE OF CONTENTS

**DEFINITIONS Pretreatment Permit – BP 2023.01.20** ..... 5
**OUTFALL DESCRIPTION** ..... 10
**SPECIAL CONDITIONS** ..... 10
**I. LIMITATIONS AND MONITORING REQUIREMENTS** ..... 12
**A. Discharge Authorization** ..... 12
**B. Effluent Limitations and Monitoring** ..... 12
**II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS** BP 2021.09.09 ..... 14
**A. Representative Sampling (Routine and Non-Routine Discharges)** ..... 14
**B. Test Procedures** ..... 14
**C. Recording of Results** ..... 15
**D. Additional Monitoring** ..... 15
**E. Reporting of Monitoring Results** ..... 15
**F. Records Retention** ..... 16
**III. COMPLIANCE RESPONSIBILITIES** ..... 16
**A. Duty to Comply** ..... 16
**B. Proper Operation and Maintenance** ..... 16
**C. Planned Changes** ..... 17
**D. Duty to Provide Information** ..... 17
**E. Signatory Requirements** ..... 17
**F. Twenty-four Hour Notice of Noncompliance Reporting** ..... 17
**G. Bypass of Treatment Facilities** ..... 18
**H. Upset Conditions** ..... 19
**I. Duty to Mitigate** ..... 19
**J. Removed Materials** ..... 19
**K. Duty to Reapply** ..... 20
**IV. GENERAL PROVISIONS** ..... 20
**A. Inspection and Entry** ..... 20
**B. Availability of Reports** ..... 20
**C. Transfers** ..... 20
**D. New Limitations or Prohibitions** ..... 20
**E. Permit Actions** ..... 20
**F. Need to Halt or Reduce Activity Not a Defense** ..... 20
**G. State Laws** ..... 20
**H. Oil and Hazardous Substance Liability** ..... 21

DRAFT

**I. Property Rights** ..... 21
**J. Severability** ..... 21
**C. Penalties** ..... 21
**V. PROHIBITED DISCHARGES** ..... 21
**a. General Prohibition** ..... 21
**b. Specific Prohibitions** ..... 21
**c. Dilution Prohibition** ..... 22

DRAFT

**DEFINITIONS Pretreatment Permit – BP 2023.01.20**

1. "**Act**" means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended [33 U.S.C. 1251, et seq.].

2. "**Approval Authority**" means the department.

3. "**Best Management Practices**" or "**BMPs**" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

4. "**Bypass**" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

5. "**Categorical Industrial User**" means an industrial user that is subject to a categorical pretreatment standard or categorical standard.

6. "**Categorical Pretreatment Standard**" or "**Categorical Standard**" means any regulation containing pollutant discharge limits promulgated by the environmental protection agency in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405 through 471.

7. **"Chronic Violations"** occur when sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

8. **"Composite Sample"** means samples that are representative of the discharge and proportioned according to flow over the compositing period. Acceptable methods for preparation of composite samples are as follows:

    a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;

    b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;

    c. Constant sample volume, time interval between samples proportional to flow (i.e. sample taken every "X" gallons of flow); and

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

9. "**Control Authority**" means either:

    a. The publicly owned treatment works, if the publicly owned treatment works which receives the indirect discharge administers an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08; or

DRAFT

b. The department, if the publicly owned treatment works which receives the indirect discharge does not administer an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08.

10. "**Department**" means the North Dakota Department of Environmental Quality, Division of Water Quality.

11. "**Director**" means the department.

12. "**DMR**" means discharge monitoring report.

13. "**EPA**" means the United States Environmental Protection Agency.

14. "**Existing Source"** means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, which is not considered a New Source.

15. **"Grab Sample"**, for monitoring requirements, is a single, discrete sample collected at a representative point in the discharge stream over a period not exceeding 15 minutes.

16. "**Indirect Discharge**" means the introduction of pollutants into a publicly owned treatment works from any nondomestic source regulated under 307(b), (c), or (d) of the Federal Water Pollution Control Act.

17. "**Industrial User**" or "**User**" means a source of indirect discharge.

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

19. "**Interference**" means an indirect discharge which, alone or in conjunction with any other indirect discharges, both:

a. Inhibits or disrupts the publicly owned treatment works processes or operations, or its sludge processes, use or disposal; and

b. Causes a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation or prevents sewage sludge use or disposal in compliance with federal or state law or statute.

15. "**New Source**" means:

a. Any building, structure, facility, or installation for which construction commenced after the publication of proposed pretreatment standards which will apply to such source after promulgation, from which there is or may be an indirect discharge, provided that:

i. The building, structure, facility or installation is constructed at a site at which no other source is located;

ii. The building, structure, facility, or installation totally replaces the process

DRAFT

or production equipment that causes the indirect discharge at an existing source; or

iii. The production or wastewater generating processes of the building, structure, facility, or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent factors, such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs 2 and 3 of subdivision a, but otherwise alters, replaces, or adds to existing process or production equipment.

c. Construction of a new source as defined under this subsection has commenced if the owner or operator has:

i. Begun, or caused to begin as part of a continuous onsite construction program:
   a. Any placement, assembly, or installation of facilities or equipment; or

   b. Significant site preparation work which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

ii. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

16. "**Pass Through**" means a discharge which exits the publicly owned treatment works into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation.

17. "**Pretreatment**" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the publicly owned treatment works. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated

DRAFT

wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).

18. "**Pretreatment Requirements**" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

19. "**Pretreatment Standards**" means any regulation which applies to industrial users that contains pollutant discharge limits promulgated by the environmental protection agency in accordance with the Federal Water Pollution Control Act, including prohibitive discharge limits established pursuant to section 33.1-16-01.1-02.

20. **"Process Wastewater"** means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

21. "**Publicly Owned Treatment Works**" or "**POTW**" means a treatment works as defined by section 212 of the Federal Water Pollution Control Act, which is owned by a state or municipality, including any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial wastes, as well as sewers, pipes, and other conveyances that convey wastewater to a publicly owned treatment works treatment plant. This term also means the municipality that has jurisdiction over the indirect discharges to and the discharges from the treatment works.

22. "**Publicly Owned Treatment Works Treatment Plant**" means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.

23. "**Severe Property Damage**" means substantial physical damage to property, damage to treatment facilities which renders 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.

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

25. "**Significant Industrial User**" or **"SIU"** means:

    a. All industrial users subject to categorical pretreatment standards under sections 33.1-16-01.1-04 and 33.1-16-01-31;

    b. Any other industrial user that meets at least one of the following criteria:

        i. Discharges an average of twenty-five thousand gallons [94,635 liters] per day or more of process wastewater to the publicly owned treatment works, excluding sanitary wastewater, noncontact cooling water and boiler blowdown wastewater;

DRAFT

ii. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works treatment plant; or

iii. Is designated as a significant industrial user by the control authority on the basis that the user has a reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement.

c. The control authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a nonsignificant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

i. The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

ii. The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and

iii. The industrial user never discharges any untreated concentrated wastewater.

d. Upon a finding that an industrial user which meets the criteria of subdivision b has no reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement, the control authority may, at any time, determine that the industrial user is not a significant industrial user.

26. "**Slug Discharge"** means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has reasonable potential to cause interference or pass through, or in any other way violate the POTW's ordinances, local limits, or permit conditions.

27. "**Upset**" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. Upset does not include noncompliance to the extent caused by operational error, inadequate or improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation.

28. "**Water Management Division Director**" means the director of the water management division of the regional office of the United States environmental protection agency or this person's delegated representative.

DRAFT

## OUTFALL DESCRIPTION

| **Outfall 001. Active – Final Pretreatment** | | | |
|---|---|---|---|
| Latitude: 46.290726623018095 | Longitude: -96.61678850959079 | County: Richland | |
| Township: 133 North | Range: 47 West | Section: 32 | QQ: SWNE |
| Description: This continuous discharge of process wastewater originates from the domestic/sanitary wastewater, boiler blowdown, plant RO reject, and treated process wastewater located on the south side of the building through an eight (8) inch pipe the City of Wahpeton POTW. | | | |

## PERMIT SUBMITTALS SUMMARY

| Coverage Point* | Submittal | Frequency | First Submittal Date |
|---|---|---|---|
| 001A | Discharge Monitoring Report | Semiannually | July 28, 2027 |
| 001A | Spill and Slug Discharge Control Plan | 1/permit cycle | December 31, 2027 |
| Application Renewal | NDPDES Application Renewal | 1/permit cycle | June 30, 2031 |
| Notes: | | | |
| * | "A" refers to Pretreatment Pollutants, Flow, and Volume Information | | |

## SPECIAL CONDITIONS

### Zinc Pollutant Minimization Plan

The permittee is required to submit a Zinc Pollutant Minimization Plan (ZMP) to be approved by the department. The purpose of the ZMP is to evaluate process flow and treatment systems to determine possible sources of zinc as well as potential zinc reduction options. Guidelines for developing a ZMP are detailed below.

The permittee shall submit the ZMP to the department by **December 31, 2027**. At a minimum, the ZMP must include the following:

A. A summary of zinc concentrations and monitoring data for each waste stream for a period of six (6) months.

B. Identification of existing and potential sources of zinc concentrations and/or loading to the Publicly Owned Treatment Works (POTW) such as chemical inventory and/or contributory zinc sources, etc.

DRAFT

C. An evaluation of past and present operations that maximize zinc removal such as engineering controls and/or process changes, etc.

D. A summary of planned zinc reduction activities for the remainder of the permit cycle. Include projected timeline for completion of expected activities.

The permittee shall sample effluent monthly for zinc throughout the development of the ZMP. Effluent must be sampled prior to discharging to the POTW. The sampling method shall be a composite sample. Zinc shall be analyzed in accordance with 40 CFR 136. Additional samples for zinc collected at Outfall 001 must be reported on the discharge monitoring report.

**Spill and Slug Discharge Control Plan**

The department as the control authority has the authority to require the permittee to develop best management practices to prevent a slug discharge or a spill release as stated in NDAC 33.1-16-01.1-Appendix A. A slug discharge is any discharge of a nonroutine, episodic nature, including an accidental spill or a noncustomary batch discharge. The permittee must develop a plan for preventing the release of pollutants to the POTW and/or waters of the state and minimizing damages when such discharge/spill occurs. The plan shall include the following:

1. A description of discharge practices for batch and/or continuous processes under normal and non-routine circumstances;

2. A list of all raw materials, products, chemicals, and hazardous materials used, processed, or stored at the facility; the normal quantity maintained on the premises for each listed material, and a map showing where they are located;

3. Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under subsection 2 of NDAC 33.1-16-01.1-02, with procedures for follow up written notification within five days; and

4. Procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures for emergency response.

The results of any slug discharge or spill shall be available to the department upon request. Updates to the spill and slug discharge plan should be made within one year of any process changes that would require changes be made to this information.

The spill and slug discharge plan can be combined with the operation and maintenance manual provided all requirements are listed.

**Operations and Maintenance**

Proper operation and maintenance ensures constructed facilities are used to their optimum potential in terms of pollutant capture and treatment. An Operation and Maintenance (O&M)

DRAFT

Manual is required for facilities designated for compliance assistance by the department as allowed under 40 CFR 403.12(b)(7). This manual shall detail procedures for sampling during or prior to the discharge of wastewater. The manual shall list the person responsible for sampling and identify a list of responsible parties to notify in the event of a pretreatment process failure. This manual shall be kept on site and be updated should sampling procedures change.

**De-Scaling**

In the event the permittee finds it necessary to de-scale, the POTW shall be notified and the wastewater generated by the de-scaling operation shall be isolated until its chemical nature can be characterized (40 CFR 403.12(j)). If the analysis reveals concentration levels of pollutants greater than the permit allows, the department shall be notified, and alternative method(s) of disposal shall be identified (40 CFR 403.12(p)).

## I. LIMITATIONS AND MONITORING REQUIREMENTS

### A. Discharge Authorization

During the effective period of this permit; the permittee is authorized to discharge pollutants from Outfall 001 as specified to the **City of Wahpeton Publicly Owned Treatment Works (POTW)**.

This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in this permit application process.

### B. Effluent Limitations and Monitoring

The permittee must comply with 40 CFR Part 403 and 40 CFR Part 421.266(a) and limit and monitor all discharges as specified below:

**Table 1 –** Effluent Limitations and Monitoring Requirements for Outfall 001A.

| Parameter | Effluent Limitations | | Monitoring Requirements | |
|---|---|---|---|---|
| | Daily Maximum | Maximum Monthly Average | Sample Type | Frequency |
| Cadmium, Total (mg/l) | 0.11 | 0.07 | Composite [a] | Semiannually |
| Chromium, Total (mg/l) | 2.77 | 1.71 | Composite [a] | Semiannually |
| Copper, Total (mg/l) | 3.38 | 2.07 | Composite [a] | Semiannually |
| Lead, Total (mg/l) | 0.69 | 0.43 | Composite [a] | Semiannually |
| Nickel, Total (mg/l) | 3.98 | 2.38 | Composite [a] | Semiannually |
| Silver, Total (mg/l) | 0.43 | 0.24 | Composite [a] | Semiannually |
| Zinc, Total (mg/l) | 2.61 | 1.48 | Composite [a] | Semiannually |
| Cyanide, Total (mg/l) | 1.20 | 0.65 | 4 Grab [b,c] | Semiannually |

DRAFT

| | | | | |
|---|---|---|---|---|
| Total Toxic Organics (TTO) (mg/l) | 2.13 | * | 4 Grab [b,d,e] | Semiannually |
| pH (s.u.) [f,g] | Between 5.0 and 12.5 | | Instantaneous | Continuous |
| Oil and Grease (mg/l) | Montior | Montior | Grab | Semiannually |
| $BOD_5$ (Biochemical Oxygen Demand) (mg/l) | Montior | Montior | Grab | Semiannually |
| COD (Chemical Oxygen Demand) (mg/l) | Montior | Montior | Grab | Semiannually |
| TSS (Total Suspended Solids) (mg/l) | Montior | Montior | Grab | Semiannually |
| Flow, process (gpd) | Report | Report | Calculated [h] | Daily |
| Drain, (MG) | Report Total | | Calculated [h] | Semiannually |
| Total Days Discharging, (Days) | Report Total | | Recorder | Daily |

**Notes:**

| | |
|---|---|
| * | This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving POTW. |
| a. | Composite samples must be representative of the quality of the discharge. A 24-hour composite sample proportioned according to flow is required where feasible. If unfeasible, the composite shall consist of a minimum of twelve (12) separate grab samples and proportioned as to flow. Sampling may be proportioned to flow by varying the time interval between each aliquot, or by varying the volume of each aliquot. |
| b. | Grab samples must be representative of the process waste stream and shall be a single, discrete sample collected over a period not exceeding 15 minutes. A minimum of (4) separate grab samples shall be taken and proportioned as to flow. |
| c. | Grab samples for cyanide shall be composited in the laboratory or in the field immediately prior to analysis. |
| d | Organic compounds comprising TTO are listed in 40 CFR 433.11(e). The sample results for TTO shall be reported as the summation of all quantifiable values greater than 0.01 mg/L for the listed compounds. |
| e. | If the permittee has an approved Toxic Organic Management Plan through the department, they may submit the following TTO certification once per six (6) months in lieu of performing TTO monitoring:<br><br>TTO Certification Statement:<br><br>“Based on my inquiry of the person or persons directly responsible for managing compliance with the permit limitation for Total Toxic Organic (TTOs), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further |

DRAFT

| | |
|---|---|
| | certify that this facility is implementing the toxic organic management plan submitted to the North Dakota Department of Environmental Quality."<br><br>Responsible Official: _____ Date: _____ |
| f. | The pH, an instantaneous limitation, shall be between 5.0 s.u. and 12.5 s.u. The permittee is required to report minimum pH, maximum pH, and the number of pH exceedances. Individual pH readings shall be recorded no less than once per 10-minutes during periods of discharge; all excursions measured within this 10-minute period shall be reported as a single exceedance. An additional pH exceedance shall be noted for each 10-minute period thereafter in which one or more excursions have been measured. |
| g. | Facilities with in-line continuous pH monitors shall follow the pH requirements for continuous discharges, even if they batch discharge. The department has determined that, based on best professional judgement, continuous pH monitoring consisting of recordings no less than once every ten (10) minutes is representative of the waste stream. |
| h. | The facility shall be allowed to calculate the process flow rate (gal/day). However, if the facility has a process flow meter installed measurements from that meter should be reported in gallons per day (gal/day) on the self-monitoring reports. The department reserves the right to determine on a case-by-case basis the appropriate flow data type, if necessary, based on sample history and to protect the POTW. |

## II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2021.09.09

### A. Representative Sampling (Routine and Non-Routine Discharges)

All samples and measurements taken shall be representative of the monitored discharge.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters limited under **Part I Effluent Limitations and Monitoring** requirements of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with B. Test Procedures. The permittee must report all additional monitoring in accordance with D. Additional Monitoring.

### B. Test Procedures

DRAFT

The collection and transportation of all samples shall conform with EPA preservation techniques and holding times found in 40 CFR 136. All laboratory tests shall be performed by a North Dakota certified laboratory in conformance with test procedures pursuant to 40 CFR 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5. The method of determining the total amount of water discharged shall provide results within 10 percent of the actual amount.

**C. Recording of Results**

Records of monitoring information shall include:

1. the date, exact place and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements;
3. the name of the laboratory;
4. the date(s) and time(s) analyses were performed;
5. the name(s) of the individual(s) who performed the analyses;
6. the analytical techniques or methods used; and
7. the results of such analyses.

**D. Additional Monitoring**

If the discharge is monitored more frequently than this permit requires, all additional results, if in compliance with B. Test Procedures, shall be included in the summary on the Discharge Monitoring Report.

**E. Reporting of Monitoring Results**

1. Monitoring results shall be summarized and reported to the department using Discharge Monitoring Reports (DMRs). If no discharge occurs during a reporting period, "No Discharge" shall be reported. The permittee must submit DMRs electronically using the electronic information reporting system unless requirements in subsection 3 are met.

2. Prior to December 21, 2025, the permittee may elect to electronically submit the following compliance monitoring data and reports instead of mailing paper forms. Beginning December 21, 2025, the permittee must report the following using the electronic reporting system:

    a. General permit reports [e.g., notices of intent (NOI); notices of termination (NOT); no exposure certifications (NOE)];

    b. Municipal separate storm sewer system program reports;

    c. Pretreatment program reports;

    d. Sewer overflow/bypass event reports; and

DRAFT

e. Clean Water Act 316(b) annual reports

3. The permittee may seek a waiver from electronic reporting. To obtain a waiver, the permittee must complete and submit an Application for Temporary Electronic Reporting Waiver form (SFN 60992) to the department. The department will have 120 days to approve or deny the waiver request. Once the waiver is approved, the permittee may submit paper versions of monitoring data and reports to the department.

   a. One of the following criteria must be met in order to obtain a waiver. The department reserves the right to deny any waiver request, even if they meet one of the criteria below.

      1. No internet access,

      2. No computer access,

      3. Annual DMRs (upon approval of the department),

      4. Employee turnover (3-month periods only), or

      5. Short duration permits (upon approval of the department)

   All reports must be postmarked by the last day of the month following the end of each reporting period. All original documents and reports required herein shall be signed and submitted to the department at the following address:

   ND Department of Environmental Quality
   Division of Water Quality
   4201 Normandy Street
   Bismarck ND 58503-1324

**F. Records Retention**

All records and information (including calibration and maintenance) required by this permit shall be kept for at least three years or longer if requested by the department or EPA.

## III. COMPLIANCE RESPONSIBILITIES

**Duty to Comply**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

**Proper Operation and Maintenance**

The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. If necessary to achieve compliance with the conditions of this permit, this shall include the operation and maintenance of backup or auxiliary systems.

DRAFT

**Planned Changes**

The department shall be given advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance. Any anticipated facility expansions, production increase, or process modifications which might result in new, different, or increased discharges of pollutants shall be reported to the department as soon as possible. Changes which may result in a facility being designated a "new source" as determined in 40 CFR 122.29(b) shall also be reported.

**Duty to Provide Information**

The permittee shall furnish to the department, within a reasonable time, any information which the department 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 department, upon request, copies of records required to be kept by this permit. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.

**Signatory Requirements**

All applications, reports, or information submitted to the department shall be signed and certified.

All permit applications shall be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official.

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

The authorization is made in writing by a person described above and submitted to the department; and

The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

If an authorization under E. Signatory Requirements is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

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

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

**Twenty-four Hour Notice of Noncompliance Reporting**

DRAFT

1. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The following occurrences of noncompliance shall be included in the oral report to the department at 701.328.5210:

    1. Any lagoon cell overflow or any unanticipated bypass which exceeds any effluent limitation in the permit under G. Bypass of Treatment Facilities;

    2. Any upset which exceeds any effluent limitation in the permit under H. Upset Conditions; or

    3. Violation of any daily maximum effluent or instantaneous discharge limitation for any of the pollutants listed in the permit.

2. A written submission shall also be provided within five days of the time that the permittee became aware of the circumstances. The written submission shall contain:

    a. A description of the noncompliance and its cause;

    b. The period of noncompliance, including exact dates and times;

    c. The estimated time noncompliance is expected to continue if it has not been corrected; and

    d. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Reports shall be submitted to the address in **Part II.E. Reporting of Monitoring Results**. The department may waive the written report on a case by case basis if the oral report has been received within 24 hours by the department at 701.328.5210 as identified above.

All other instances of noncompliance shall be reported no later than at the time of the next Discharge Monitoring Report submittal. The report shall include the four items listed in this subsection.

**Bypass of Treatment Facilities**

1. 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 any of the following provisions in this section.

2. Bypass exceeding limitations-notification requirements.

    1. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of bypass.

    2. Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required under F. Twenty-four Hour Notice of Noncompliance Reporting.

DRAFT

3. Prohibition of Bypass. Bypass is prohibited, and the department may take enforcement action against a permittee for bypass, unless:

    a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

    b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if 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

    c. The permittee submitted notices as required under the 1. Anticipated Bypass subsection of this section.

    The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three (3) conditions listed above.

**Upset Conditions**

An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph 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.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and the permittee can identify its cause(s);

2. The permitted facility was, at the time being, properly operated;

3. The permittee submitted notice of the upset as required under F. Twenty-four Hour Notice of Noncompliance Reporting and

4. The permittee complied with any remedial measures required under I. Duty to Mitigate.

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

**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. The permittee, at the department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.

**Removed Materials**

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from

DRAFT

entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the state. The permit issuing authority shall be contacted prior to the disposal of any sewage sludges. At that time, concentration limitations and/or self-monitoring requirements may be established.

**Duty to Reapply**

Any request to have this permit renewed should be made six months prior to its expiration date.

## IV. GENERAL PROVISIONS

### A. Inspection and Entry

The permittee shall allow department and EPA representatives, at reasonable times and upon the presentation of credentials if requested, to enter the permittee's premises to inspect the wastewater treatment facilities and monitoring equipment, to sample any discharges, and to have access to and copy any records required to be kept by this permit.

### B. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the department and EPA. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

### C. Transfers

This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent department approval. The current permit holder should inform the new controller, operator, or owner of the existence of this permit and also notify the department of the possible change.

### D. New Limitations or Prohibitions

The permittee shall comply with any effluent standards or prohibitions established under Section 306(a), Section 307(a), or Section 405 of the Act for any pollutant (toxic or conventional) present in the discharge or removed substances within the time identified in the regulations even if the permit has not yet been modified to incorporate the requirements.

### E. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. This includes the establishment of limitations or prohibitions based on changes to Water Quality Standards, the development and approval of waste load allocation plans, the development or revision to water quality management plans, changes in sewage sludge practices, or the establishment of prohibitions or more stringent limitations for toxic or conventional pollutants and/or sewage sludges. 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.

### F. 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.

### G. State Laws

DRAFT

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

**H. Oil and Hazardous Substance Liability**

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

**I. Property Rights**

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

**J. Severability**

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provisions.

**K. Penalties**

Nothing in this permit may be construed to relieve the permittee from civil and/or criminal penalties for noncompliance.

## V. PROHIBITED DISCHARGES

**A. General Prohibition**

The permittee shall not introduce into the POTW any pollutant which causes pass through or interference.

**B. Specific Prohibitions**

The following pollutants may not be introduced into the POTW from any source:

1. Pollutants which create a fire or explosion hazard in the POTW, including waste streams with a closed cup flashpoint of less than sixty (60) degrees Celsius (140 degrees Fahrenheit) using the test methods specified in 40 CFR 261.21.

2. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the POTW is specifically designed to accommodate such discharges.

3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.

4. Any pollutant released in a discharge at a flow rate or pollutant concentration which will cause interference.

5. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW exceeds forty degrees Celsius (104-degree Fahrenheit), unless the department, upon request of the POTW, approves alternate temperature limits.

DRAFT

6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or passthrough.

7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

8. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

**C. Dilution Prohibition**

The permittee is prohibited from diluting its effluent as a partial or complete substitute for adequate treatment to achieve compliance with permit limitations.

DRAFT