Permit No: ND0025232
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 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,

Basin Electric Power Cooperative
Leland Olds Station

is authorized to discharge from Leland Olds Station power plant

to the Missouri River and Alderin Creek

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

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TABLE OF CONTENTS

DEFINITIONS 4
OUTFALL DESCRIPTION 6
PERMIT SUBMITTALS SUMMARY 8
SPECIAL CONDITIONS 8
Discharge Monitoring Report – Quality Assurance Study 8
I. LIMITATIONS AND MONITORING REQUIREMENTS 9
A. Discharge Authorization 9
B. Effluent Limitations and Monitoring 9
II. CLEAN WATER ACT 316(b) FINAL RULES 17
A. Cooling System Operation 17
B. Monitoring and Reporting 17
C. Permit Application 18
D. Inspection and Entry 18
III. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2021.09.09 19
A. Representative Sampling (Routine and Non-Routine Discharges) 19
B. Test Procedures 19
C. Recording of Results 19
D. Additional Monitoring 19
E. Reporting of Monitoring Results 19
F. Records Retention 20
IV. COMPLIANCE RESPONSIBILITIES 21
A. Duty to Comply 21
B. Proper Operation and Maintenance 21
C. Planned Changes 21
D. Duty to Provide Information 21
E. Signatory Requirements 21
F. Twenty-four Hour Notice of Noncompliance Reporting 22
G. Bypass of Treatment Facilities 22
H. Upset Conditions 23
I. Duty to Mitigate 23
J. Removed Materials 23
K. Duty to Reapply 24
V. GENERAL PROVISIONS 24
A. Inspection and Entry 24
B. Availability of Reports 24
C. Transfers 24
D. New Limitations or Prohibitions 24
E. Permit Actions 24
F. Need to Halt or Reduce Activity Not a Defense 24
G. State Laws 24
H. Oil and Hazardous Substance Liability 24
I. Property Rights 25
J. Severability 25

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DEFINITIONS

DEFINITIONS Standard Permit BP 2025.03.13

1. "**Act**" means the Clean Water Act.

2. "**Best management practices**" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.

3. "**Bypass**" means the intentional diversion of waste streams from any portion of a treatment facility.

4. "**Composite**" sample means a combination of at least 4 discrete sample aliquots, collected over periodic intervals from the same location, during the operating hours of a facility not to exceed a 24-hour period. The sample aliquots must be collected and stored in accordance with procedures prescribed in the most recent edition of Standard Methods for the Examination of Water and Wastewater.

5. "**Continuous Discharge**" means a "discharge" which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

6. "**Daily discharge**" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

7. "**Daily maximum discharge limitation**" means "maximum daily discharge limitation" which is the highest allowable "daily discharge."

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

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

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

11. "**Geometric mean**" means the n^{th} root of a product of n factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.

12. "**Grab**" for monitoring requirements, means a single "dip and take" sample collected at a representative point in the discharge stream.

13. "**Instantaneous**" for monitoring requirements, means a single reading, observation, or measurement. If more than one sample is taken during any calendar day, each result obtained shall be considered.

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14. "**Monthly average discharge limitation**" means "average monthly discharge limitation" which is the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

15. "***Oncorhynchus***" means of, belonging to, or characteristic of the genus *Oncorhynchus* in the family *Salmonidae*, which includes salmon and trout.

16. "**Sanitary Sewer Overflows (SSO)**" means untreated or partially treated sewage overflows from a sanitary sewer collection system.

17. "**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.

18. "**Total drain**" means the total volume of effluent discharged.

19. "**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.

20. "**Weekly average discharge limitation**" means "average weekly discharge limitation" which is the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week.

DEFINITIONS Cooling Water Intake BP 2025.03.13

See 40 CFR 423.11

See 40 CFR 125.92

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OUTFALL DESCRIPTION

Outfall 001. Active. Final Outfall. Once through cooling water.			
Latitude: 47.28582	Longitude: -101.31888	County: Mercer	
Township: 144N	Range: 84W	Section: 15	QQ: SW SW
Receiving Stream: Missouri River		Classification: Class I	
Outfall Description: This discharge consists of once-through cooling water from Unit No. 1 and effluent from Outfall 003. Outfall 001 has a design flow of 134 MGD. Discharges are to the Missouri River.			

Outfall 002. Active. Final Outfall. Once through cooling water.			
Latitude: 47.28587	Longitude: -101.31926	County: Mercer	
Township: 144N	Range: 84W	Section: 15	QQ: SW SW
Receiving Stream: Missouri River		Classification: Class I	
Outfall Description: This discharge consists of once-through cooling water from Unit No. 2 and effluent from Outfall 003. Outfall 002 has a design flow of 271 MGD. Discharges are to the Missouri River.			

Outfall 003. Active. Internal Point. Clarifier.			
Latitude: 47.28073	Longitude: -101.31670	County: Mercer	
Township: 144N	Range: 84W	Section: 22	QQ: SW NW
Receiving Stream: Missouri River		Classification: Class I	
Outfall Description: This discharge consists of low volume wastes. This is an interior point that mixes with Outfall 001 and/or Outfall 002.			

Outfall 009. Active. Final Outfall. Screen washings and intake maintenance dewatering.			
Latitude: 47.28574	Longitude: -101.32047	County: Mercer	
Township: 144N	Range: 84W	Section: 15	QQ: SW SW
Receiving Stream: Missouri River		Classification: Class I	
Outfall Description: An intermittent discharge of Unit Nos. 1 and 2 intake screen washings. The discharge also includes dewatering of the intake structure clear wells during maintenance. The discharge is located in the northeast corner of the intake building. Any discharge is to the Missouri River.			

Outfall 011. Active. Final Outfall. Settling pond for ash landfill site.			
Latitude: 47.24771	Longitude: -101.35322	County: Mercer	
Township: 144N	Range: 84W	Section: 32	QQ: NE SW
Receiving Stream: Alderin Creek		Classification: Class III	
Outfall Description: Discharges consist of runoff water from the exterior portions of the ash landfill and construction associated with landfill expansion. Any discharge is to Alderin Creek.			

Outfall 012. Active. Final Outfall. Settling pond for ash landfill site.			
Latitude: 47.24254	Longitude: -101.36146	County: Mercer	
Township: 144N	Range: 84W	Section: 32	QQ: SW SW
Receiving Stream: Alderin Creek		Classification: Class III	
Outfall Description: Discharges consist of runoff water from the exterior portions of the ash landfill and construction associated with landfill expansion. Any discharge is to Alderin Creek.			

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Outfall 013. Active. Final Outfall. Site Runoff.			
Latitude: 47.28563	Longitude: -101.32124	County: Mercer	
Township: 144N	Range: 84W	Section: 15	QQ: SW SW
Receiving Stream: Missouri River		Classification: Class I	
Outfall Description: The settling pond is for managing stormwater runoff from the west plant area, Units 1 and 2 roof drains, and former Glenharold Mine office/shop complex (Outfall 028). Any discharge enters the Missouri River to the west of the cooling water intakes.			

Outfall 014. Active. Final Outfall. Site Runoff.			
Latitude: 47.28110	Longitude: -101.31646	County: Mercer	
Township: 144N	Range: 84W	Section: 22	QQ: SW NW
Receiving Stream: Missouri River		Classification: Class I	
Outfall Description: This discharge consists of coal pile runoff, plant site runoff, and low volume wastes. Any discharge flows through an open ditch before entering the Missouri River northeast of the facility.			

Outfall 028. Active. Internal Point. Settling Pond.			
Latitude: 47.27715	Longitude: -101.32689	County: Mercer	
Township: 144N	Range: 84W	Section: 21	QQ: NW SE
Receiving Stream: Missouri River		Classification: Class I	
Outfall Description: This is an internal discharge consisting of runoff from the former Glenharold Mine office/shop complex located in the NW1/4, SE1/4, Section 21, T144N, R84W. Any discharge is to settling pond 013.			

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PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Monitoring Period	Submittal Frequency	First Submittal Date
001A	Discharge Monitoring Report	Monthly	Quarterly	April 28, 2027
002A	Discharge Monitoring Report	Monthly	Quarterly	April 28, 2027
003A	Discharge Monitoring Report	Monthly	Quarterly	April 28, 2027
011A	Discharge Monitoring Report	Quarterly	Quarterly	April 28, 2027
012A	Discharge Monitoring Report	Quarterly	Quarterly	April 28, 2027
013A	Discharge Monitoring Report	Quarterly	Quarterly	April 28, 2027
014A	Discharge Monitoring Report	Monthly	Quarterly	April 28, 2027
Cooling Water Intake	Actual Intake Flow Report	Monthly	Quarterly	April 28, 2027
Cooling Water Intake	Annual Certification Statement	Annual	Annual	January 28, 2028
Application Renewal	EPA Form 1 & 2C 316(b) Application	Not applicable	1/permit cycle	June 30, 2031

SPECIAL CONDITIONS

All bottom ash transport water generated on or after December 31, 2023, shall comply with 40 CFR 423.13(k)(1)(i).

Discharge Monitoring Report – Quality Assurance Study

This facility has been selected to take part in the annual Discharge Monitoring Report – Quality Assurance (DMR-QA) Study. This participation is a requirement as outlined in Section 308 of the Clean Water Act (CWA). EPA will mail you a copy of the annual DMR-QA Study notification letter. Additional information may be found by visiting the following website: https://www.epa.gov/compliance/discharge-monitoring-report-quality-assurance-study-program#about Discontinuation from the DMR-QA Study may take place upon a written letter from the State DMR-QA Coordinator.

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I. LIMITATIONS AND MONITORING REQUIREMENTS

A. Discharge Authorization

During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfalls as specified to the following: **Missouri River** and **Alderin Creek**.

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

B. Effluent Limitations and Monitoring

The permittee must limit and monitor all discharges as specified below:

Table 1: Effluent Limitations and Monitoring Requirements **Outfall 001 and 002**

Parameter	Effluent Limitations		Monitoring Requirements	
	Average Monthly Limit	Maximum Daily Limit	Sample Frequency	Sample Type
Temperature, °C (°F) [a,b]	*	37.2 (99)	Continuous	Recorder
pH, S.U.	Shall remain between 6.5 to 9.0		1/Week	Instantaneous
Total Residual Chlorine, mg/L [c]	N/A	0.20	1/Week	Grab
Total Residual Chlorine, lb/day, 001 [c]	N/A	13.5	1/Week	Grab
Total Residual Chlorine, lb/day, 002 [c]	N/A	24.7	1/Week	Grab
Flow, mgd	Report Average Monthly Value	Report Maximum Daily Value	1/Day	Instantaneous
Total Flow, mgal	Report Monthly Total		1/Month	Calculated

Notes:

*. This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.

N/A Not Applicable

a. For the purpose of reporting excursions above the temperature limit, a single test will be considered to include the rise and fall of temperature or multiple peaks occurring in a one (1) hour period.

b. The thermal mixing zone shall not present a thermal shock or stressor, affect spawning, or block the migration of aquatic organisms.

c. Monitoring for Total Residual Chlorine shall be waived at outfalls 001 and 002 on the condition that the once-through cooling system not have the capability to add chlorine to the system; this is in accordance with 40 CFR 122.44(a)(2), *Monitoring waivers for certain guideline-listed pollutants*. Should a chlorination system or chlorine be added to the once-through cooling water system, the waiver shall no longer be valid, and Total Residual Chlorine shall be limited in the discharge and monitored in accordance with this permit.

Total Residual Chlorine shall not be discharged from any single generating unit for more than two hours per day unless the discharger demonstrates to the permitting authority that the

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Table 1: Effluent Limitations and Monitoring Requirements **Outfall 001 and 002**
discharge for more than two hours is required for macroinvertebrate control.
Stipulations: There shall be no discharge of floating solids, visible foam in other than trace amounts, or oily wastes that produce sheen on the surface of the receiving water. There shall be no batch discharges resulting from intermittent intake cleaning. The discharge shall consist only of uncontaminated cooling water and low volume waste. There shall be no discharge of polychlorinated biphenyl compounds. Samples taken in compliance with the monitoring requirements shall be taken prior to leaving company property or entering the receiving stream. Temperature shall be measured by continuous recorder at the outfall of the condenser water box outlet.

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Table 2: Effluent Limitations and Monitoring Requirements **Outfall 003**				
Parameter	Effluent Limitations		Monitoring Requirements	
	Average Monthly Limit	Maximum Daily Limit	Sample Frequency	Sample Type
Total Suspended Solids, mg/L	30	100	1/Week	Grab
Oil & Grease mg/l	15	20	1/Month	Grab
pH	*		1/Week	Instantaneous
Flow, mgd	Report Average Monthly Value	Report Maximum Daily Value	1/Week	Instantaneous
Total Flow, mgal	N/A	Report Monthly Total	1/Month	Calculated
Nitrogen, Total, mg/L [a]	Average for the Month	Monitor Only	1/Month	Grab
Nitrogen, Total, lb/day [a]	Average for the Month	Monitor Only	1/Month	Calculated
Phosphorus, Total, mg/L	Average for the Month	Monitor Only	1/Month	Grab
Phosphorus, Total, lb/day	Average for the Month	Monitor Only	1/Month	Calculated
Chlorides, mg/L	N/A	N/A	1/Year	Grab

Notes:

*. This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.

N/A Not Applicable

a. Total nitrogen is a combination of nitrate, nitrite, and Total Kjeldahl Nitrogen (TKN).

Stipulations:

There shall be no discharge of domestic wastewater.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

There shall be no discharge of polychlorinated biphenyl compounds.

There shall be no discharge of industrial chemicals used for plant operation or maintenance without prior department permission.

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Table 3: Effluent Limitations and Monitoring Requirements **Outfall 009**
Stipulations:
Best Management Practices (BMPs) shall be utilized at all times. There shall be no discharge of floating solids or visible foam in other than trace amounts. The quality of water shall be the best which is presently attainable. There shall be no change in operation that will deteriorate the quality of the discharge. No fuel, lubricating oils, chemicals, or process water shall be discharged. Any clear well dewatering shall be done in a manner which, to the extent possible, directs the pumped water to the adjacent clear well for intake into the plant. There shall be no discharge of polychlorinated biphenyl compounds.

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Table 4: Effluent Limitations and Monitoring Requirements **Outfall 011 & 012**

Parameter	Effluent Limitations		Monitoring Requirements	
	Average Monthly Limit	Maximum Daily Limit	Sample Frequency	Sample Type
Total Suspended Solids, mg/L [a]	*	70	1/Week	Grab
pH, S.U.	6.0 to 9.0		1/Week	Instantaneous
Flow, mgd	Report Average Quarterly Value	Report Maximum Daily Value	1/Day	Calculated
Total Drain, mgal	N/A	Report Quarterly Total	1/Quarter	Calculated
Total Days Discharge	N/A	Report Quarterly Total	1/Quarter	Calculated

Notes:

*. This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.

N/A Not Applicable

a. If the facility is designed, constructed, operated, and maintained to treat the runoff from a 10-year, 24-hour precipitation event, the daily maximum limitation for total suspended solids shall be waived for any discharge overflow caused by a rainfall in excess of 3.2 inches in a 24-hour period. The permittee shall have the burden of proof that all of these conditions have been met. The precipitation shall be monitored by gauge and recorded daily by the permittee.

Stipulations:

The settling ponds and other erosion control features of the facility must be operated and maintained in accordance with Best Management Practices (BMPs).

The ponds shall not be used to discharge water which has come into contact with ash.

There shall be no discharge of polychlorinated biphenyl compounds.

<u>Conditions for Construction Phase of Landfill Expansion:</u>
The department must be notified prior to the start of new construction on the ash disposal site. A landfill expansion phase is considered to be the period beginning with the start of construction of a new disposal cell and lasting through the close of construction and re-establishment of BMPs. Construction does not include capping and similar earthmoving activities associated with the day-to-day operation of the landfill. The department may extend or reinstate the effluent limitations and monitoring requirements for Outfalls 011 and 012 should significant erosion be evident at the site.

The dewatering samples must be taken prior to the discharge leaving company property or entering any receiving streams.

Upon completing a landfill construction phase, any dewatering information shall be submitted to the department as an attachment to the Discharge Monitoring Report for the respective monitoring period. The attachment must include sample results, dates of discharges, frequency of analyses, total number of gallons discharged, and discharge flow rates.

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Table 5: Effluent Limitations and Monitoring Requirements **Outfall 013**				
Parameter	Effluent Limitations		Monitoring Requirements	
	Average Monthly Limit	Maximum Daily Limit	Sample Frequency	Sample Type
Total Suspended Solids, mg/L	*	*	1/Quarter	Grab
Oil & Grease, mg/L [a]	*	*	1/Quarter	Visual/Grab
pH, S.U.	*		1/Quarter	Instantaneous
Flow, mgd	Report Average Quarterly Value	Report Maximum Daily Value	1/Day	Calculated
Total Drain, mgal	N/A	Report Quarterly Total	1/Quarter	Calculated
Total Days Discharge	N/A	Report Quarterly Total	1/Quarter	Calculated

Notes:

*. This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.

N/A Not Applicable

a. The discharge shall not have a visible sheen or floating oil. If detected, the department shall be notified, and a grab sample shall be analyzed.

Stipulations:

The quality of the discharge shall be the best attainable through the use of BMPs. The pond and discharge structure shall be inspected regularly and maintained appropriately to ensure that the structure and discharge do not deteriorate.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

No fuel, lubricating oils, chemicals, or process wastewaters shall be discharged.

There shall be no discharge of polychlorinated biphenyl compounds.

Samples shall be taken prior to the discharge water leaving company property or entering any receiving streams. Dates of discharges, frequency of monitoring, estimate of the total number of gallons discharged, and estimated average discharge flow rate shall also be included on the Discharge Monitoring Reports.

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Table 6: Effluent Limitations and Monitoring Requirements **Outfall 014**				
Parameter	Effluent Limitations		Monitoring Requirements	
	Average Monthly Limit	Maximum Daily Limit	Sample Frequency	Sample Type
Total Suspended Solids, mg/L [a]	30	50	1/Week	Grab
Oil & Grease, mg/L	15	20	1/Month	Grab
pH, S.U.	Shall remain between 6.5 to 9.0		1/Week	Instantaneous
Flow, mgd	Report Average Monthly Value	Report Maximum Daily Value	1/Week	Calculated
Total Flow, mgal	N/A	Report Monthly Total	1/Month	Calculated
Nitrogen, Total, mg/L [b]	Average for the Month	Monitor Only	1/Month	Grab
Nitrogen, Total, lb/day [b]	Average for the Month	Monitor Only	1/Month	Calculated
Phosphorus, Total, mg/L	Average for the Month	Monitor Only	1/Month	Grab
Phosphorus, Total, lb/day	Average for the Month	Monitor Only	1/Month	Calculated

Notes:

N/A Not Applicable

a. If the facility is designed, constructed, operated, and maintained to treat the runoff from a 10-year, 24-hour precipitation event, this limitation shall be waived for any discharge overflow caused by a rainfall in excess of 2.99 inches (or equivalent snowmelt) in 24 hours. The permittee shall have the burden of proof that all of these conditions have been met. The precipitation shall be monitored by gauge and recorded daily by the permittee.

b. Total nitrogen is a combination of nitrate, nitrite, and Total Kjeldahl Nitrogen (TKN).

Stipulations:

There shall be no discharge of floating solids or visible foam in other than trace amounts.

There shall be no discharge of polychlorinated biphenyl compounds.

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Table 7: Effluent Limitations and Monitoring Requirements **Stormwater Runoff**

Applicable to:

- Runoff from the ash landfill haul road corridor
- Equipment storage and other support areas at the plant site
- Surplus and salvage property yard including the settling pond (Outfall 028)

The stormwater discharges from the areas above shall be limited and monitored by the permittee as specified below:

The quality of the stormwater discharge shall be the best attainable through the implementation of Best Management Practices (BMPs).

No fuel, lubricating oils, chemicals or process wastewater shall be discharged.

Spill prevention and response procedures must be employed to minimize the potential for spilled material to discharge with stormwater. A Spill Prevention Control and Countermeasure (SPCC) Plan developed to satisfy 40 CFR 112 also serves as a stormwater pollution prevention measure.

Any areas that do not drain to a pond shall be operated and maintained to minimize, to the extent reasonably practicable, stormwater contact with raw materials, intermediate products, finished products, byproducts, or waste materials. Good housekeeping practices should be employed to keep these areas clean and orderly. No fuel, lubricating oils, chemicals or process wastewater shall be discharged.

The haul road to the ash landfill site must be inspected at least annually. The haul road and drainage ditches shall be inspected for evidence of material spillage, erosion, sedimentation, and deterioration or ineffectiveness of structural controls. If necessary, the stormwater pollution prevention practices shall be revised based on the observations noted during the inspection. The inspection records for the haul road corridor, and any other areas of support activity, shall be kept on-site and available for review for at least three (3) years.

The retention pond and transfer equipment for Outfall 028 must be inspected regularly and maintained appropriately to ensure that the structure, including inlet and outlets, do not deteriorate.

There shall be no discharge of polychlorinated biphenyl compounds.

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II. CLEAN WATER ACT 316(b) FINAL RULES

A. Cooling System Operation

The permittee operates a single intake structure along the Missouri River subject to the 316(b) rules for existing cooling water intake structures (CWIS). The permittee is subject to the following provisions as they relate to cooling water operations:

1. Nothing in this permit authorizes take for the purpose of a facility's compliance with the Endangered Species Act.

2. The permittee shall maintain the ability to remotely monitor the CWIS during the period the CWIS is in operation. The permittee shall employ remote monitoring devices to ensure that the technologies operated to comply with the impingement and entrainment standards are maintained and operated to function as designed. Weekly visual inspections of the onshore portion of the CWIS shall be conducted when remote monitoring devices are not in operation.

3. The permittee shall operate at a *de minimis* rate of impingement to comply with the best technology available standard for impingement mortality.

4. The permittee shall operate the Missouri River cooling water intake structure as it exists on the effective date of this permit to comply with the best technology available standard for entrainment. Under 40 CFR 125.94(d), the department has determined operating the cooling water intake structure as it exists on the effective date of this permit is the site-specific best technology available standard for the maximum reduction in entrainment warranted for the permittee.

B. Monitoring and Reporting

1. The actual intake flow of the Missouri River CWIS shall be monitored daily. Actual intake flow monitoring shall be representative of normal operating conditions. Actual intake flow monitoring shall include measuring the cooling water withdrawal from the Missouri River. Actual intake flow monitoring shall be reported with discharge monitoring reports.

2. The permittee shall submit an annual certification statement and report regarding the operations of any unit that involves cooling water withdrawals or operation of the Missouri River CWIS. If the facility has modified the operation of any unit at the facility that impacts cooling water withdrawals or operation of the Missouri River CWIS, the facility shall provide a summary of those changes in the annual report. If the information contained in the previous year's annual certification is still pertinent, the permittee shall state as such in the annual certification statement. The annual certification statement shall be signed by the responsible corporate officer as defined in 40 CFR 122.22. Any revision to the information required by 40 CFR 122.21(r) shall be submitted with the next permit application.

3. The permittee shall notify the department of any proposed changes to the Missouri River cooling water intake structure or operation of the Missouri River cooling water intake. Any changes to the cooling water intake structure or operation of the cooling water intake shall be included with the annual certification statement and report.

4. All discharge monitoring reports, and annual certification statements and reports related to cooling water intake operation shall be retained until the subsequent permit is issued.

5. All information submitted with the permit application used to satisfy the requirements of 40 CFR 122.21(r) shall be retained until the subsequent permit is issued.

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6. All records supporting the department's determination of the best technology available for entrainment shall be retained until the subsequent permit is issued.

C. Permit Application

Any revisions related to the requirements of 40 CFR 122.21(r) shall be included with the next permit application.

D. Inspection and Entry

The permittee shall allow the department and EPA representatives, at reasonable times and upon the presentation of credentials if requested, to enter the permittee's premises to inspect the cooling water withdrawals or operation of the cooling water intake structure and request information needed to determine permit compliance. This includes information needed to determine permit conditions and requirements, and any additional information recommended by the U.S. Fish and Wildlife Service upon review of the permittee's next permit application.

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III. 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

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.

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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

   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.

DRAFT

IV. COMPLIANCE RESPONSIBILITIES

A. 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.

B. 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.

C. 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.

D. 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.

E. 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:

DRAFT

"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."

F. Twenty-four Hour Notice of Noncompliance Reporting

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:

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

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

    c. 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.

G. 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.

    a. 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.

DRAFT

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

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.

H. 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.

I. 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.

J. 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 entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not

DRAFT

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.

K. Duty to Reapply

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

V. 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

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.

DRAFT

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 provision to other circumstances and the remainder of this permit shall not be affected thereby.

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