

NVG000001

STATE OF NEVADA  
DIVISION OF ENVIRONMENTAL PROTECTION

PERMIT FOR

TRACER DYE DISCHARGES TO WATERS OF THE STATE OF NEVADA THAT MEET THE DEFINITION OF  
WATERS OF THE UNITED STATES

AUTHORIZATION TO DISCHARGE

In compliance with the provisions of the federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq; the "Act") and Chapter 445A of the Nevada Revised Statutes (NRS), eligible dischargers have submitted: 1) a Notice of Intent and filing fee in accordance with Nevada Administrative Code (NAC) 445A.268.

In accordance with the terms and conditions set forth hereof;

Site Number: NTD - XXXXX

NOI Approval Date: mm/dd/yyyy

Facility Information	
Site Name	XX
Site Address	XX
Operator Name	XX
Operator Address	XX

This permit shall become effective on: **October 12, 2015**

This permit and the authorization to discharge shall expire at midnight **October 11, 2020**.

Signed this 12<sup>th</sup> day of **October 2015**.


  
Briana Johnson  
Environmental Scientist  
Bureau of Water Pollution Control

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## **1.0 Coverage under this General Permit**

### **1.1 Eligibility**

- 1.1.1 The objective of this permit is to control and reduce pollution to Waters of the State of Nevada that meet the definition of Waters of the United States (WoUS) from discharges associated with the use of tracer dyes, through the use of Best Management Practices (BMPs).
- 1.1.2 This general permit authorizes tracer dye discharges associated with hydrologic studies and other water tracing activities, provided the operator complies with all the requirements of this general permit and submits a Notice of Intent (NOI) in accordance with Part 2.3 of this general permit.
- 1.1.3 This permit is not authorized for use by operators with tracer dye discharges on any Tribal Lands in Nevada. United States Environmental Protection Agency (USEPA) Region 9 is the permitting authority for Tribal Lands in Nevada.
- 1.1.4 Any discharges that do not comply with the eligibility conditions of this permit are not authorized by the permit. A person shall either apply for a separate National Pollutant Discharge Elimination System (NPDES) permit to cover the ineligible discharge(s), cease the discharge(s), or take necessary steps to make the discharge(s) eligible for coverage under this permit. The Nevada Division of Environmental Protection (NDEP) may require the holder of a general permit to apply for and obtain an individual permit in accordance with Nevada Administrative Code (NAC) 445A.269.

### **1.2 Authorized Discharges**

- 1.2.1 Subject to compliance with the terms and conditions of this permit, the discharge of tracer dye to Waters of the State of Nevada that meet the definition of WoUS, is allowed provided that appropriate BMPs are designed, installed, and utilized during the discharge.

### **1.3 Prohibited Discharges**

- 1.3.1 Discharges not covered by this general permit include, but are not limited to:
  - 1.3.1.1 Discharges that cause or contribute to an exceedance of water quality standards;
  - 1.3.1.2. Discharges that cause or contribute to an exceedance of any USEPA or National Sanitation Foundation (NSF) standard at a water-user withdrawal point.

### **1.4 Limitations of Coverage**

- 1.4.1 Discharges Covered by Another NPDES Permit: This general permit does not authorize tracer dye discharges that have been covered under an individual permit or another applicable general permit.
- 1.4.2 Discharges Threatening Water Quality: This general permit does not authorize discharges that will cause or contribute to non-attainment of water quality standards or the beneficial uses of receiving waters as defined in NAC 445A.121 and NAC 445A.122 respectively. The operator shall design and implement BMPs sufficient to meet these requirements.
- 1.4.3 Discharges to Water Quality Impaired Waters: A discharge to a surface water contained in



the current 303(d) *Impaired Water Body* listing issued by NDEP Bureau of Water Quality Planning (BWQP), that is impaired for a chemical or physical property of the dye (e.g. pH), shall provide documentation to the NDEP Bureau of Water Pollution Control (BWPC) showing that the discharge will not further degrade the waterbody of concern. Information concerning 303(d) listed waters can be found on the following NDEP website: <http://ndep.nv.gov/>.

- 1.4.4 Discharges to Water Bodies with Established Total Maximum Daily Load (TMDL): The Permittee shall comply with all applicable TMDL requirements. TMDL information can be found on the NDEP website: <http://ndep.nv.gov/>.

## **2.0 Authorization Under this General Permit**

### **2.1 Owner/Operator Responsibility**

- 2.1.1 All operators are required to obtain coverage for tracer dye discharges associated with hydrologic study and water tracer activities under this permit. In some cases, an operator may be the property owner, and in other cases the operator may be a contracted entity. In the event of a default by the "Operator" submitted on the NOI, NDEP will consider the "Owner" submitted on the NOI as the responsible "Operator". For the purpose of this permit, an "Operator" is any person associated with the tracer dye permit who meets the following criteria:

- 2.1.1.1 The person has operational control over the project plans, specifications and activities; including the ability to make modifications to those plans and specifications; or
- 2.1.1.2 The person has day-to-day operational control of those activities at a project location that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit).

### **2.2 Application for Coverage**

- 2.2.1 Prior to submission of an NOI, an applicant seeking authorization to discharge under this general permit shall:

- 2.2.1.1 Ensure the project meets the eligibility requirements under Part 1.1; and
- 2.2.1.2 Develop a pre-project report that shall be submitted with the electronic NOI application. The report shall include:
- 2.2.1.2.1 The name of the tracer dye to be used, the Material Safety Data Sheet (MSDS) for the dye, the estimated volume, and maximum concentration of the dye to be used;
- 2.2.1.2.2 The location of the tracer dye discharge and the name of the water in which it will be placed;
- 2.2.1.2.3 Proof of ownership or authorization to discharge to the receiving location;
- 2.2.1.2.4 The purpose of the study and an explanation as to why the tracer dye will be used;

- 2.2.1.2.5 The time interval over which the tracer dye will be discharged and the frequency at which it will be discharged;
- 2.2.1.2.6 An explanation of how the tracer dye will be discharged into the waterbody;
- 2.2.1.2.7 The estimated distance that the tracer dye will have to travel to reach a concentration of less than 10 µg/L, and an explanation for how this number was derived;
- 2.2.1.2.8 A listing of all the water-withdrawal users downstream of the discharge point that are anticipated to have detectable concentrations of the tracer dye and an estimate of the tracer dye concentration at any downstream municipal water intake;
- 2.2.1.2.9 A plan to notify the public and downstream beneficial users of the tracer dye discharge activities and to limit any concerns at least 7 days prior to the commencement of those activities;
- 2.2.1.2.10 In accordance with Part 1.4.3, when tracer dye discharges are proposed to water quality-impaired waters that are contained in the current 303(d) *Impaired Water Body* listing issued by NDEP BWQP, the Permittee shall demonstrate how the discharge will not further degrade the waterbody of concern;
- 2.2.1.2.11 A tracer dye concentration sampling plan for the project that includes at least 1 water sample per hour during the 5 hour window in which the maximum tracer dye concentration is expected at the intake for each water-withdrawal user;
- 2.2.1.2.12 A contingency plan in the event of a dye spill; and
- 2.2.1.2.13 A site location map that shows:
  - 2.2.1.2.13.1 The anticipated discharge location and dye travel pathway; and
  - 2.2.1.2.13.2 Approximate location of all water-withdrawal points in the study reach.
- 2.2.2 An operator shall submit separate NOIs to NDEP for each project that requires the use of tracer dyes in a WoUS.

## **2.3 NOI Electronic Application Requirements**

- 2.3.1 NOIs must be submitted using NDEP's electronic NOI system. Submission of the NOI demonstrates the owner's/operator's intent to be covered by this permit; it is not a determination by NDEP that the owner/operator has met the eligibility requirements for the permit.
- 2.3.2 Dischargers seeking authorization for tracer dye discharges under this general permit shall submit an **NOI** and **filing fee** to NDEP no later than 14 days prior to the start of the permitted activity. The NOI application may be accessed via the NDEP website at: <http://ndep.nv.gov/>.
- 2.3.3 The minimum information required for an approved NOI consists of:

- 2.3.3.1 Project Owner and Operator (Applicant) Information – Name, Address, City, State, Zip Code, Phone Number(s) and Tax Identification Number for both the owner and operator;
- 2.3.3.2 Project/Site Information – Project Name, Project Address/Location, City, County, State, Zip Code, Latitude, Longitude, and at least one Assessor's Parcel Number (APN) associated with the project;
- 2.3.3.3 Name of the receiving water;
- 2.3.3.4 Whether any part of the project site is located on Tribal Lands;
- 2.3.3.5 Estimated start date;
- 2.3.3.6 Estimated completion date;
- 2.3.3.7 Frequency of discharge;
- 2.3.3.8 Estimated volume of tracer dye to be used (in gallons);
- 2.3.3.9 NOI Certification page signed and dated by appropriate authority (see Part 5.20) and mailed to NDEP at the address indicated on the form and in Part 5.23 of this permit;
- 2.3.3.10 NOI filing fee as indicated on the NOI Certification page; and
- 2.3.3.11 Pre-project report prepared in accordance with Part 2.2.1.2.

## **2.4 Effective Date of Permit Coverage**

- 2.4.1 Following receipt of the NOI Certification Page, applicable Application Fee and pre-project report, NDEP will determine whether the NOI is complete and will confirm coverage by providing an Authorization to Discharge, with a site authorization number.
- 2.4.2 If NDEP determines the NOI is incomplete, coverage will not be authorized until a completed NOI is submitted. NDEP will notify an applicant of an incomplete application after receipt of the NOI Certification Page by the BWPC.
- 2.4.3 In accordance with NAC 445A.268 (4), a discharger will not be covered under a general permit until the discharger has been notified by the Director.

## **2.5 Continuation of this Permit**

- 2.5.1 If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued and remain in force and effect. If the operator is authorized to discharge under this permit prior to the expiration date, any discharges authorized under this permit will automatically remain covered by this permit until:
  - 2.5.1.1 The owner/operator submits an NOI requesting authorization to discharge under a renewal or revision of the permit and NDEP issues an Authorization to Discharge; or
  - 2.5.1.2 The owner/operator submits a Notice of Termination (NOT); or
  - 2.5.1.3 A formal permit decision is made by NDEP not to reissue this general permit, at which time NDEP will identify a reasonable time period for covered dischargers to



seek coverage under an alternative general permit or an individual permit.  
Coverage under this permit will cease at the end of this time period.

## **2.6 Terminating Coverage**

- 2.6.1 To terminate coverage, the Permittee shall submit a completed hard-copy NOT form, available at <http://ndep.nv.gov/>, to the address listed on the form and in Part 5.23 of this permit. The submitted form shall include a wet signature; copies will not be accepted. Upon submission of the NOT, the Permittee shall ensure that all tracer dye activities have ceased and that all monitoring and reporting requirements have been completed. The facility's authorization to discharge will expire at midnight of the day that a complete NOT form is received by NDEP. Until the authorization to discharge is terminated, the Permittee is responsible for meeting the terms and conditions of this permit.
- 2.6.1.1 Should an electronic NOT version become available during the term of this permit a link for this electronic reporting requirement will be provided on the NDEP BWPC webpage at <http://ndep.nv.gov/>.
- 2.6.2 All NOT forms shall be signed in accordance with the signatory requirements of Part 5.20.
- 2.6.3 The Permittee may submit an NOT form to NDEP if the operator has obtained coverage for the project activities under another NPDES permit.
- 2.6.4 The minimum information required on a NOT consists of:
- 2.6.4.1 Site specific identification number (i.e., NTD-xxxxx);
- 2.6.4.2 Owner/Operator (Applicant) Information – name, address, city, state, Zip Code and phone number(s);
- 2.6.4.3 Project/Site Information – project name, project address/location, city, county, state, Zip Code, latitude, longitude or APN, and phone number(s);
- 2.6.4.4 Certification signed and dated by the appropriate authority (see Parts 5.20 and 5.22); and
- 2.6.4.5 Reason for submission of the NOT.

## **3.0 Effluent Limitations Applicable to Tracer Dye Discharges**

### **3.1 Effluent Limitations**

- 3.1.1 The Permittee shall take at least 1 water sample per hour, during the 5 hour window in which the maximum tracer dye concentration is expected at the intake for each water-withdrawal user listed in the NOI submittal. The water samples shall be taken within 200 feet of the intake, or as close as safely reasonable. The concentration of the tracer dye shall not exceed 10 µg/L at the sample point closest to each water intake.

### **3.2 Water Quality Standards**

- 3.2.1 The Permittee shall control discharges to surface waters, as necessary, to not cause or contribute to an exceedance of an applicable water quality standard. If at any time the



Permittee becomes aware, or NDEP determines, that the discharge causes or contributes to an exceedance of an applicable water quality standard, the Permittee shall cease discharge and notify NDEP.

3.2.1.1 If a Permittee discharges into a waterbody contained in the current 303(d) *Impaired Water Body* listing, the Permittee shall not further degrade the water body of concern.

3.2.1.2 If a Permittee discharges into a waterbody with an established TMDL, the Permittee shall comply with all applicable TMDL requirements.

### **3.3 Narrative Standards**

3.3.1 Discharges shall not cause the following standards to be violated in any surface waters of the state. Waters must be free from:

3.3.1.1 Substances that will settle to form sludge or bottom deposits in amounts sufficient to be unsightly, putrescent or odorous;

3.3.1.2 Floating debris, oil, grease, scum, and other floating materials in amounts sufficient to be unsightly;

3.3.1.3 Materials in amounts sufficient to produce taste or odor in the water or detectable off-flavor in the flesh of fish or in amounts sufficient to change the existing color, turbidity or other conditions in the receiving stream to such a degree as to create a public nuisance;

3.3.1.4 High temperature, biocides, organisms pathogenic to human beings, toxic, corrosive or other deleterious substances at levels or combinations sufficient to be toxic to human, animal, plant or aquatic life;

3.3.1.5 Radioactive materials that result in accumulations of radioactivity in plants or animals that result in a hazard to humans or harm to aquatic life;

3.3.1.6 Untreated or uncontrolled wastes or effluents that are reasonably amenable to treatment or control; and

3.3.1.7 Substances or conditions, which interfere with the beneficial use of the receiving waters.

3.3.2 The narrative standards are not considered violated when the natural conditions of the receiving water are outside the established limits, including periods of high or low flow. Where effluents are discharged to such waters, the discharges are not considered a contributor to substandard conditions provided maximum treatment in compliance with permit requirements is maintained.

3.3.3 There shall be no objectionable odors from the collection system, treatment facility or disposal area, or biosolids treatment, use, storage or disposal area that the Permittee owns or operates.

3.3.4 There shall be no discharge of substances that would cause a violation of water quality standards of the State of Nevada as defined by the permit. The permit may be reopened, and additional limits imposed, if it is determined that the discharge is causing a violation of ambient water quality standards of the State of Nevada.

3.3.5 There shall be no discharge from the collection, treatment and disposal facilities except as authorized by this permit or in accordance with the Division's Spill Reporting Policy.

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

## **4.0 Monitoring and Reporting**

### **4.1 Monitoring**

4.1.1 Representative Samples: Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. Additional samples and measurements collected at the non-discharge monitoring locations shall also be representative of the media and conditions being evaluated/monitored.

4.1.2 Recording the Results: For each measurement or sample taken pursuant to the requirements of this permit, the Permittee shall record the following information:

4.1.2.1 The exact place, date, and time of sampling;

4.1.2.2 The dates the analyses were performed;

4.1.2.3 The person(s) who performed the analyses;

4.1.2.4 The analytical techniques or methods used; and

4.1.2.5 The results of all required analyses, including reporting limits.

4.1.3 Additional Monitoring by Permittee: If the Permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the DMR form. Such increased frequency shall also be indicated on the DMR.

4.1.4 Test procedures for analyses of pollutants shall conform to regulations (40 CFR § 136) published pursuant to Section 304(h) of the Act, under which such procedures may be required, unless other procedures are approved by NDEP.

4.1.5 All laboratory analyses conducted in accordance with this discharge permit must have detection at or below the permit limits.

4.1.6 All analytical results must be generated by analytical laboratories certified by the state of Nevada laboratory certification program.

4.1.7 Reporting Limits: Unless otherwise approved by the Division, the approved method of testing selected for analysis must have reporting limits which are:

4.1.7.1 Half or less of the discharge limit; or, if there is no limit,

4.1.7.2 Half or less of the applicable water quality criteria; or, if there is no limit or criteria,

4.1.7.3 The lowest reasonably attainable using an approved test method.

- 4.1.8 The reporting limit requirement does not apply if a water quality standard is lowered after the issuance of this permit; however, the Permittee shall review methods used and by letter notify the division if the reporting limit will exceed the new criterion, and if so the Division may reopen the permit to impose new monitoring requirements.
- 4.1.9 Records Retention: All records and information resulting from the monitoring activities, permit application, reporting required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation, shall be retained for a minimum of three years, or longer if required by the Administrator.
- 4.1.10 Modification of Monitoring Frequency and Sample Type: After considering monitoring data, stream flow, discharge flow and receiving water conditions, the Administrator, may for just cause, modify the monitoring frequency and/or sample type by issuing an order to the Permittee.

## **4.2 Reporting**

- 4.2.1 NDEP Submittal Address: An original signed copy of Discharge Monitoring Report (DMR) forms and all other reports required herein, shall be submitted to the Division at the following address:

Nevada Division of Environmental Protection  
Bureau of Water Pollution Control  
901 South Stewart, Suite 4001  
Carson City, Nevada 89701

### **4.2.2 Event Reporting**

- 4.2.2.1 The Permittee shall notify the Division and the public at least 7 days prior to the commencement of tracer dye use in Surface Waters of the State of Nevada.
- 4.2.2.2 In accordance with Part 2.2.1.2.9, the Permittee shall submit to the Division evidence that the public notification plan was implemented at least 7 days prior to the commencement of those activities.
- 4.2.2.3 In the event that the tracer dye concentration limit of 10 µg/L, as described in Part 3.1.1, is exceeded, the Permittee shall notify NDEP and the potentially affected water withdrawal user within 24 hours of becoming aware of the exceedance.

### **4.2.3 Quarterly Reporting**

- 4.2.3.1 Monitoring results obtained pursuant to this permit for the previous three (3) month period shall be summarized and tabulated for each month and reported on a Discharge Monitoring Report (DMR) form. Quarterly reports shall be submitted for the quarterly periods corresponding to: January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. The DMR is to be received in this office no later than the 28th day of the month following the completed reporting period. If required, the Permittee shall submit data in an electronic format approved by the Division. Any data submitted that exceeds the limits of Part 3.0 must be explained by a narrative. Summaries of laboratory results for analyses conducted by outside laboratories must accompany the DMR, and the full data package provided by the laboratory must be provided if requested in writing by the Division. If at any time the Permittee concludes that submitted data were incorrect, the Permittee shall notify the Division in writing, identify the incorrect data,



and replace the incorrect data with corrected data, which shall thereafter be used for determining compliance with this permit.

- 4.2.3.2 DMRs must be signed by the facility's highest ranking certified operator. The first DMR submitted under this permit must include the written designation of the certified operator required by Part 5.22.1, Signatures, Certification Required on Application and Reporting Forms, as the authorized representative to sign the DMRs. If the certified operator in responsible charge changes, a new designation letter must be submitted.
- 4.2.3.3 The Quarterly Report shall include the following information about each tracer dye discharge event:
  - 4.2.3.3.1 Location of tracer dye injection site(s);
  - 4.2.3.3.2 Volume of tracer dye used;
  - 4.2.3.3.3 Time of discharge;
  - 4.2.3.3.4 Method of discharge;
  - 4.2.3.3.5 Location of any sampling sites;
  - 4.2.3.3.6 Photographic documentation that depicts the discharge activities, the scope of operations, monitoring location(s), discharge point(s), and any relevant activity related to the discharge; and
  - 4.2.3.3.7 Concentration and location (latitude and longitude) of the tracer dye at the closest sampling point, reasonably close to the intake for each water-withdrawal user listed in the NOI submittal.
- 4.2.3.4 Quarterly Reports are required to be submitted for each quarter until the permit has been terminated. If there was no discharge of tracer dye during a quarter, please submit a letter to the Division noting that there was "no discharge" during the applicable quarter.
- 4.2.4 Miscellaneous Reporting
  - 4.2.4.1 Compliance Reports: Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each scheduled date. Quarterly reports shall include documentation that identifies all tracer dye spills and/or time periods of non-compliance that occurred at the project site during the previous quarter.
  - 4.2.4.2 Other information: Where the Permittee becomes aware of failure to submit any relevant facts in a permit application or the submittal of incorrect information in a permit application or in any report to the Administrator, the Permittee shall promptly submit such facts or information.
  - 4.2.4.3 Planned Changes: The Permittee shall give notice to the Administrator as soon as possible of any planned alterations or additions to the project activities. Notice is required only when the alteration or addition to a permitted facility:



- 4.2.4.3.1 May meet one of the criteria for determining whether a facility is a new source (40 CFR 122.29(b)); or
- 4.2.4.3.2 Could significantly change the nature or increase the quantity of pollutants discharged.
- 4.2.4.4 Anticipated Noncompliance: The Permittee shall give advance notice to the Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- 4.2.5 Annual Reporting
  - 4.2.5.1 Annual reports are not required under this general permit.

## **5.0 General Permit Conditions**

### **5.1 Annual Fee**

- 5.1.1 In accordance with NAC 445A.268, a discharger who is covered under a general permit shall pay to the Director the applicable nonrefundable annual fee not later than July 1 of each year that the discharger is covered under that permit.
- 5.1.2 If application/fee for the permit occurs prior to July 1, the Permittee shall also submit the annual renewal fee due on or before July 1 of the same year.

### **5.2 General Permit Re-issuance for Ongoing Projects**

- 5.2.1 The Permittee will be included in the reissued general permit after this general permit expires, or will be informed of other permitting requirements. The Permittee will receive public notice if NDEP determines to reissue the general permit.

### **5.3 Facilities Operation**

- 5.3.1 The Permittee shall at all times maintain in good working order and operate as efficiently as possible all equipment and ancillary BMPs used by the Permittee to achieve compliance with the terms and conditions of this general permit.

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

- 5.4.1 It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity, under the Permittee's control, in order to maintain compliance with the conditions of this permit.

### **5.5 Noncompliance, Unauthorized Discharge, Bypass, and Upset**

- 5.5.1 Any diversion, bypass, spill, overflow, upset or discharge of tracer dye under the control of the Permittee is prohibited except as authorized by this permit. In the event the Permittee has knowledge that a diversion, bypass, spill, overflow, upset or discharge not authorized by this permit is imminent, the Permittee shall notify NDEP immediately.
- 5.5.2 Bypass means the intentional diversion of tracer dye from any portion of a control measure.

- 5.5.2.1 Bypass is prohibited, and NDEP may take enforcement action against the Permittee for bypass, unless:
  - 5.5.2.1.1 Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - 5.5.2.1.2 There were no feasible alternatives to the bypass. 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 preventative maintenance; and
  - 5.5.2.1.3 The Permittee submitted prior notice at least 10 days before the date of the bypass.
- 5.5.2.2 NDEP may approve an anticipated bypass, after considering its adverse effects, if NDEP determines that it will meet the three conditions listed above.
- 5.5.3 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 control measures, inadequate control measures, lack of preventive maintenance, or careless or improper operation.
  - 5.5.3.1 An upset constitutes an affirmative defense to an action brought for non-compliance with such technology-based permit effluent limitations if the requirements of Part 5.5.3.2 below are met.
  - 5.5.3.2 A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:
    - 5.5.3.2.1 An upset occurred and that the Permittee can identify the cause(s) of the upset;
    - 5.5.3.2.2 The permitted site was at the time being properly operated;
    - 5.5.3.2.3 The Permittee submitted notice of the upset as required under this section; and
    - 5.5.3.2.4 The Permittee complied with any remedial measures required under Part 5.0.
  - 5.5.3.3 In selecting the appropriate enforcement option, NDEP shall consider whether or not the noncompliance was the result of an upset. The burden of proof is on the Permittee to establish that an upset occurred.
  - 5.5.3.4 There shall be no discharge of substances to Waters of the State that would cause a violation of water quality standards of the State of Nevada.
- 5.5.4 The Permittee shall notify the Administrator at (775) 687-9418 during normal business hours and through the NDEP Spill Hotline (1-888-331-6337) within twenty-four (24) hours after identifying any diversion, bypass, spill, upset, overflow or release of treated or untreated discharge from the treatment works or other permitted facilities under the control of the Permittee that imminently and substantially endangers human health, the

environment, or reaches a waters of the state. A written report shall be submitted to the Administrator within five (5) days of diversion, bypass, spill, overflow, upset or discharge, detailing the entire incident, including:

- 5.5.4.1 Time, date, and duration of discharge;
- 5.5.4.2 Exact location and estimated amount of discharge;
- 5.5.4.3 Flow path and any bodies of water which the discharge reached;
- 5.5.4.4 The specific cause of the discharge;
- 5.5.4.5 The preventive and/or corrective actions taken to mitigate the spill;
- 5.5.4.6 Future preventative actions to ensure a similar spill will not recur; and,
- 5.5.4.7 Assessment of public contact with the spill and any notification provided to other public or private entities that may have been affected by the spill.
- 5.5.5 The following shall be included as information which must be reported within 24 hours:
  - 5.5.5.1 Any unanticipated bypass which exceeds any effluent limitation in the permit;
  - 5.5.5.2 Any upset which exceeds any effluent limitation in the permit; and
  - 5.5.5.3 Violation of a limitation for any toxic pollutant or any pollutant identified as the method to control a toxic pollutant.
- 5.5.6 The Permittee shall report all instances of noncompliance not reported under Part 5.0 at the time monitoring reports are submitted. The reports shall contain the information listed in pertinent sections of Part 5.0 of this general permit.
- 5.6 Odors**
  - 5.6.1 There shall be no objectionable odors resulting from activities authorized by this general permit.
- 5.7 Removed Substances**
  - 5.7.1 Solids or other pollutants removed during discharge activities shall be disposed of in a manner such as to prevent pollution from such materials from entering any surface water.
- 5.8 Changes in Discharge**
  - 5.8.1 All discharges authorized herein shall be consistent with the terms and conditions of this general permit. Any anticipated new discharges at the site which will result in new, different, or increased discharges of pollutants shall be reported to NDEP. Pursuant to NAC 445A.263, the general permit may be modified to specify and limit any pollutants not previously limited.
- 5.9 Adverse Impact**
  - 5.9.1 The Permittee shall take all reasonable steps to minimize, to the extent practicable, any adverse impact to receiving waters resulting from noncompliance with this general permit,



including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge. The Permittee shall carry out such measures, as reasonable, to prevent significant adverse impacts on human health or the environment.

## **5.10 Right of Entry**

5.10.1 The Permittee shall allow the Administrator and/or his authorized representatives, upon the presentation of credentials:

- 5.10.1.1 To enter upon the Permittee's premises where a discharge is or could be located or in which any records are required to be kept under the terms and conditions of the general permit; and
- 5.10.1.2 At reasonable times, to have access to and copy any records required to be kept under the terms and conditions of this general permit; to inspect any monitoring equipment or monitoring method required in this general permit; and to perform any necessary sampling to determine compliance with the general permit or to sample any discharge.

## **5.11 Transfer of Ownership or Control**

5.11.1 In the event of any change in control or ownership of facilities from which the authorized discharge emanates, the Permittee shall notify the succeeding owner/operator of the existence of this permit by letter, a copy of which shall be forwarded to NDEP. Completion of transfer requires the following actions:

- 5.11.1.1 Transfer of coverage from one owner/operator to a different owner/operator (e.g., facility sold to a new company): the new owner/operator shall complete and file an NOI in accordance with Part 2.3, at least 14 days prior to taking over operational control of the facility. The current owner/operator shall file a NOT within thirty (30) days after the new owner/operator has assumed responsibility for the facility.
- 5.11.1.2 Name changes for the Permittee (e.g., Company "A" changes name to "BCD, Inc.") may be done by submitting to NDEP a request letter on company letterhead, indicating the facility's assigned permit number and requesting the name change.

## **5.12 Availability of Reports**

5.12.1 Except for data determined to be confidential under NRS 445A.665, all reports prepared in accordance with the terms of this general permit shall be available for public inspection at the office of NDEP. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in NRS 445A.710.

## **5.13 Furnishing False Information and Tampering with Monitoring Devices**

5.13.1 Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained by the provisions of NRS 445A.300 to 445A.730, inclusive, or by any general permit, rule, regulation or order issued pursuant thereto, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under the provisions of NRS 445A.300 to 445A.730 inclusive, or by any general permit, rule, regulation or order issued pursuant thereto, is guilty of a gross misdemeanor and shall be punished by a fine of not more than \$10,000 or by imprisonment. This penalty is in addition



to any other penalties, civil or criminal, provided pursuant to NRS 445A.300 to 445A.730 inclusive.

#### **5.14 Penalty for Violation of General Permit Conditions**

5.14.1 The Permittee shall comply with all conditions of this permit. Any permit non-compliance constitutes a violation of the CWA and is grounds for enforcement action, permit termination, revocation and re-issuance, modification, or denial of a permit renewal application. NRS 445A.675 provides that any person who violates a general permit condition is subject to administrative and judicial sanctions as outlined in NRS 445A.690 through 445A.705.

#### **5.15 General Permit Modification, Suspension or Revocation**

5.15.1 After notice and opportunity for a hearing, this general permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

- 5.15.1.1 Violation of any terms or conditions of this general permit;
- 5.15.1.2 Obtaining this general permit by misrepresentation or failure to disclose fully all relevant facts; or
- 5.15.1.3 A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

#### **5.16 Liability**

5.16.1 Nothing in this general permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Federal, State or local laws, regulations, or ordinances.

#### **5.17 Property Rights**

5.17.1 The issuance of this general permit does not convey any property rights, in either real or personal property, or 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.

#### **5.18 Records Retention**

5.18.1 All records and information resulting from activities performed pursuant to this permit shall be retained for a minimum of three years, or longer if required by NDEP.

#### **5.19 Severability**

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

#### **5.20 Signature Requirements**

5.20.1 All Notices of Intent, Notices of Termination, reporting forms and document submissions

shall be signed by one of the following:

- 5.20.1.1 A principal executive officer of the corporation (of at least the level of vice president) or his authorized representative who is responsible for the overall operation of the facility for which the discharge described in the application or reporting form originates; or
- 5.20.1.2 A general partner of the partnership; or
- 5.20.1.3 The proprietor of the sole proprietorship; or
- 5.20.1.4 A principal executive officer, ranking elected official or other authorized employee of the municipal, state or other public facility.
- 5.20.1.5 A duly authorized representative only if:
  - 5.20.1.5.1 The authorization is made in writing by a person described above in Part 5.20.1;
  - 5.20.1.5.2 The authorization specifies either an individual or a position within the organization; and
  - 5.20.1.5.3 The written authorization is submitted to the Director.

## **5.21 Changes to Authorization**

- 5.21.1 If an authorization under Part 5.20 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part 5.20 shall be submitted to NDEP prior to or together with any reports, information, or application to be signed by an authorized representative.

## **5.22 Certification Requirements**

- 5.22.1 Signatures, Certification Required on Application and Reporting Forms: All applications, reports, or information submitted to the Administrator shall be signed and certified by making 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 gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering 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."

## **5.23 Address for Fee Payment, NOI Certification Page, and Notice of Termination Form**

- 5.23.1 NOI Certification pages and NOT applications shall be signed and dated in accordance with Parts 2.2, 2.3, and 2.6 and submitted to NDEP at the address below. Application fees, annual fees, and any required reporting documentation shall likewise be sent to the following address:

Nevada Division of Environmental Protection  
Bureau of Water Pollution Control  
901 South Stewart Street, Suite 4001  
Carson City, Nevada 89701

## **Appendix A**

### **Definitions, Abbreviations and Acronyms**

## A.1 Definitions

**Administrator** – means the executive head of the Division (NRS 445A.315).

**Best Management Practices (BMPs)** – schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to Waters of the State of Nevada that meet the definition of Waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. See 40 CFR 122.2.

**Clean Water Act (CWA)** – Formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 92-217, Public Law 95-576, Public Law 96-483 and Public Law 97-117, 33 U.S.C. 1251 et seq. CWA and regulations means the Clean Water Act (CWA) and applicable regulation promulgated thereunder. In the case of an approved State program, it includes State program requirements.

**Control Measure** – refers to any BMP or other method (including effluent limitations) used to prevent or reduce the discharge of pollutants to Waters of the State of Nevada that meet the definition of Waters of the United States.

**Corrective Action** – for the purpose of this permit, any action taken to (1) modify or replace any control measure used at the site; (2) clean up and dispose of spills, releases, or other deposits found on the site; or (3) remedy a permit violation.

**Department** - means the State Department of Conservation and Natural Resources (NRS 445A.330).

**Director** – means the Director of the Nevada Division of Environmental Protection or an authorized representative (NRS 445A.340).

**Discharge** – means any addition of a pollutant or pollutants to Waters of the State of Nevada that meet the definition of Waters of the United States or to a Municipal Separate Storm Sewer from any point source.

**Discharge of a pollutant** – any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source,” or any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This includes additions of pollutants into waters of the United States from surface runoff which is collected or channeled by man. See 40 CFR 122.2.

**Discharge Point** – is, for the purpose of this permit, the location where tracer dye flows into the waterbody.

**Discharge to an Impaired Water** – for the purposes of this permit, a discharge to an impaired water occurs if the first water of the U.S. to which you discharge is identified by NDEP, pursuant to section 303(d) of the Clean Water Act, as not meeting an applicable water quality standard. For discharges that enter a storm drain system prior to discharge, the first surface water to which you discharge is the water body that receives the stormwater discharge from the storm drain system.

**Division** – means the Division of Environmental Protection of the Department (NRS 445A.350).



**Existing Discharger** – an operator applying for coverage under this permit for discharges authorized previously under an NPDES general or individual permit.

**Facility** - site or area where tracer dye has been deposited, stored, disposed of, placed or otherwise located.

**General Permit** – means a permit issued by the Department pursuant to NRS 445A.475 (NRS445A.360).

**Impaired Water** – waters that have been assessed by NDEP, under the CWA, Section 303(d), as not attaining a water quality standard for at least one designated use, and are listed in Nevada's 2006 303(d) Impaired Waters List.

**Minimize** – to reduce and/or eliminate to the extent achievable using BMPs that are technologically available and economically practicable and achievable in light of best industry practices.

**Municipal Separate Storm Sewer (MS4)** – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains);

1. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
2. Designed or used for the collecting or conveying stormwater;
3. Which is not a combined sewer; and
4. Is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR122.2. See 40 CFR 122.26(b)(4) and (b)(7).

**Notice of Intent (NOI)** – the application to operate under this general permit.

**Notice of Termination (NOT)** – the application to terminate coverage under this general permit.

**Operator** – any entity involved with a tracer dye discharge activity that meets either of the following two criteria:

1. The person has operational control over the project plans, specifications and activities; including the ability to make modifications to those plans and specifications; or
2. The person has day-to-day operational control of those activities at a project location that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit).

**Person** – "Person" includes the United States, to the extent authorized by federal law, the State or any agency or institution thereof, any municipality or other political subdivision of this State or any interstate body (NRS 445A.390).

**Pollutant – (NRS 445A.400)**

1. Means dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.
2. Does not mean water, gas or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well is used either for facilitating production or for disposal purposes and if the Department determines that such injection or disposal will not result in the degradation of ground or surface water resources.
3. Does not mean water, gas or other material injected into a well or used to stimulate a reservoir of geothermal resources if the Department determines that the injection or stimulation will not result in the degradation of ground or surface water resources.

**Qualified Person or Qualified Personnel** – Qualified personnel are those (either the Operator's employees or outside consultants) who are knowledgeable in the principles and practice of using tracer dyes and with pollution prevention; who possess the skills to assess conditions at the project site that could impact water quality; and the skills to assess the effectiveness of any control measures used during project activities.

**Point Source** – means any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

**Pollution Prevention Measures** – means controls designed to reduce or eliminate the addition of pollutants at the project site, discharges through analysis of pollutant sources, implementation of proper handling/disposal practices, employee education, and other actions.

**Tracer Dye** – means any colored dye used in Waters of the United States to track flow in that water body.

**µg/L** – means micrograms per liter.

**Waters of the State** - means all waters situated wholly or partly within or bordering upon this state including but not limited to all streams, lakes, ponds, impounding reservoirs, marshes, water courses, waterways, wells, springs, irrigation systems, and drainage systems; and all bodies or accumulations of water, surface and underground, natural or artificial.

**Waters of the United States or Waters of the U.S.** – is defined at 40 CFR §122.2. Discharges to storm drain systems that in turn discharge to Waters of the United States are considered to be discharges to Waters of the United States.

**Water Quality Standards** – A water quality standard defines the water quality goals of a water body, or portion thereof, by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses. States and EPA adopt water quality standards to protect public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act.

## **A.2 Abbreviations and Acronyms**

**BMP** – Best Management Practice

**BWPC** – Bureau of Water Pollution Control

**BWQP** – Bureau of Water Quality Planning

**CFR** – Code of Federal Regulations

**CWA** – Clean Water Act (or Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq)

**EPA** – Federal Environmental Protection Agency

**NDEP** – Nevada Division of Environmental Protection

**NOI** – Notice of Intent

**NOT** – Notice of Termination

**NPDES** – National Pollutant Discharge Elimination System

**WOUS** – Waters of the United States