

GROUND WATER DISCHARGE PERMIT
Waste Control Specialists LLC, DP-1817
draft

I. INTRODUCTION

The New Mexico Environment Department (NMED) issues this Discharge Permit, DP-1817, to Waste Control Specialists LLC (WCS) (permittee) pursuant to the New Mexico Water Quality Act (WQA), NMSA 1978 §§74-6-1 through 74-6-17, and the New Mexico Water Quality Control Commission (WQCC) Regulations, 20.6.2 NMAC.

NMED's purpose in issuing this Discharge Permit, and in imposing the requirements and conditions specified herein, is to monitor the discharge of water contaminants from the WCS facility, in Andrews County, Texas into ground and surface water, so as to protect ground and surface water in New Mexico for present and potential future use as domestic and agricultural water supply and other uses and protect public health. In issuing this Discharge Permit, NMED has determined that the requirements of Subsection C of 20.6.2.3109 NMAC have been or will be met. Pursuant to Section 20.6.2.3104 NMAC, it is the responsibility of the permittee to comply with the terms and conditions of this Discharge Permit; failure may result in an enforcement action(s) by NMED (20.6.2.1220 NMAC).

WCS's facility is located on property that spans the New Mexico-Texas border. The licensed and permitted commercial waste management portion of the facility occupies approximately 1,338 acres in Texas and will hereafter be referred to as the "Waste Management Facility." WCS conducts the following commercial waste management operations within the Waste Management Facility:

1. The Hazardous Waste Facility (HWF) is permitted as a RCRA Subtitle C facility by the State of Texas to treat, store and dispose of hazardous waste. The U.S. Environmental Protection Agency (EPA) has authorized WCS to store and land dispose Toxic Substances Control Act (TSCA) wastes, including polychlorinated biphenyls and asbestos at the HWF.
2. The Texas Compact Waste Disposal Facility (CWDF) is owned and licensed by the State of Texas to dispose of Class A, B and C Low-level Radioactive Waste (LLRW) from Texas and 35 other states. WCS operates the CWDF.
3. The Federal Waste Disposal Facility (FWDF) is licensed to dispose of Class A, B and C low-level radioactive waste (LLW) and mixed low-level waste (MLLW) that is the responsibility of the Federal Government.
4. The Byproduct Material Disposal Facility (BMDF) is licensed by the State of Texas to dispose of uranium metal products, or byproducts, from the decommissioned Fernald nuclear arms facility near Cincinnati, Ohio.
5. WCS is licensed to store and process LLW pursuant to a license issued by the State of Texas.

WCS owns approximately 850 contiguous acres in New Mexico, the majority of which is unused, undeveloped, desert shrub land. Approximately 65 of these acres are used for stockpiling soils excavated from the landfill cells. WCS does not manage waste material in New Mexico. The New Mexico portion of the Facility will hereafter be referred to as the "New Mexico portion of the

Facility.” The Waste Management Facility and the New Mexico portion of the Facility will jointly be referred to as the “Facility.”

The activities which produce the discharge, the location of the discharge, and the quantity, quality and flow characteristics of the discharge are briefly described as follows:

WCS is authorized by the State of Texas to discharge water from the HWF and the BMDF under two Texas Pollutant Discharge Elimination System (TPDES) permits, WQ0004038000 (“4038”) and WQ0004857000 (“4857”) (collectively “TPDES Permits”). To control the discharge of pollutants to receiving waters, Texas authorizes these discharges only in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in the TPDES permits. The HWF and the BMDF discharge includes: non-contaminated stormwater, stormwater associated with construction activities, non-contact industrial stormwater, non-contact cooling water, and landfill wastewaters and contaminated stormwater. Each of these discharges are subject to specific effluent limitations and monitoring requirements at specific “outfalls” listed in the TPDES permits. Permit 4038 regulates five outfalls, including numbers 101, 001, 002, 003 and 004 (never constructed). It is at Outfalls 001 and 002 that non-contact stormwater and other water is last monitored before it enters the State of New Mexico. Permit 4857 regulates three outfalls, including numbers 004, 005, and 103. Landfill wastewaters, i.e., contact water, from the HWF and the BMDF is collected and stored. When these wastewaters are demonstrated to meet TPDES permit discharge standards they are discharged from Outfalls 101 and 103 respectively. Non-contact stormwater associated with the BMDF has the potential to flow through Outfall 002. These TPDES permits may be viewed at WCS’s web site at:

<http://www.wcstexas.com/facilities/licenses-permits/>

The volume of TPDES compliant water passing through Outfalls 001 and 002 into New Mexico varies dependent upon rainfall amounts. Because the Facility is located in an arid environment with approximately 12 inches of annual rainfall, and because a large portion of the flow infiltrates and evapotranspires, the average discharge during the years 2012, 2013, 2014, 2015 and 2016 through Outfall 002 was approximately 300,000 gallons per year. During the same period, there was zero calculated actual discharge through Outfall 001. A theoretical maximum (calculated for a 100-year storm event as required to be included in the permit application) of 170,500,000 gallons per day (gpd) of stormwater runoff may be discharged via Outfalls 001 and 002. WCS has never observed an actual discharge event approaching the theoretical maximum.

WCS procedure prohibits discharge of wastewater from Outfalls 101 and 103 during storm events, thus those waters do not reach Outfalls 001 and 002. Fluids passing through the Outfalls 001 and 002 is predominately non-contact stormwater runoff from areas of the Waste Management Facility not managing waste, however that stormwater flows on the same route as wastewater originating at Outfalls 101 and 103.

Leachate, leak detection system water, and contact stormwater from the FWDF landfill and the CWDF landfill is collected and pumped into storage tanks. These waters are then treated to meet standards identified in Texas Land Application Permit (TLAP) WQ0004948000 prior to discharge to double lined evaporative impoundments located in Texas equipped with leak detection for

disposal. WCS domestic wastewater is stored in above ground storage tanks prior to analysis and is then transferred offsite to the City of Andrews (Texas) publicly owned treatment works (POTW) for disposal.

Surface water at or near the Facility is characterized by ephemeral drainages, sheet flow, minor gullies, and internally-drained playas. The Facility surface slopes southwest in Texas and New Mexico at about 15 feet per mile.

The geologic formations encountered at or near surface near the Facility comprise, from oldest to youngest and from deepest to shallowest, the Triassic Dockum Group, the undifferentiated Ogallala/Antlers/Gatuna (OAG) alluvium, and recent windblown sands. The Facility is located over a geologic feature referred to as the red bed ridge. The red bed ridge is prominent buried ridge developed on the erosional upper surface of the Triassic Dockum Group trending northwest-southeast beneath the site. The Dockum Group red beds are encountered below the site at depths ranging from 8 to 80 feet, have a significant influence on the overlying alluvial material creating shallow groundwater saturation and groundwater flow direction.

The Dockum Group consists of a series of fluvial and lacustrine mudstone, siltstone, sandstone, and silty dolomite deposits. The Dockum Group is over 1,000 feet thick beneath the Facility. The upper part of the Dockum Group is described in boring logs as red to purple, dry, very firm to consolidated clay or claystone with very low permeability ranging from about 10^{-8} to 10^{-10} cm/s. The erosional upper surface of the Dockum acts as the lower aquitard of the OAG unit.

The shallowest laterally continuous groundwater bearing zone below the Facility is a siltstone/sandstone lens within the Dockum Group at a depth of approximately 225 feet below ground level (bgl). WCS's Hazardous Waste Permit, Number 50358, issued by the TCEQ, considers the 225-foot zone of groundwater to be the uppermost aquifer. WCS's 2013 and 2014 Annual [groundwater] Detection Monitoring Reports to TCEQ associated with the HWF describe the 225-foot zone as having a very low horizontal hydraulic conductivity, ranging from 10^{-8} to 10^{-9} cm/s, an average hydraulic gradient of 0.027 ft/ft, and a general groundwater flow direction of south-southwest.

Perched lenses of shallow groundwater below the Facility are occasionally found at the interface between the Dockum and the OAG units. Because of the relative differences in hydraulic conductivity and porosity of the Dockum claystone and the OAG alluvial material, water infiltrating from the surface is found to accumulate in distinct and separate pockets at this interface. It is this interface that is the focus of the groundwater detection monitoring in this Discharge Permit.

The Waste Management Facility is located in Texas at 9998 West State Highway 176, approximately six miles east of Eunice, New Mexico. The New Mexico portion of the Facility is located in Sections 28 and 33, Township 21 South, Range 38 East, Lea County, New Mexico. Groundwater most likely to be affected is at a depth of between 19 and 35 feet. The application (i.e., discharge plan) consists of the materials submitted by the permittee dated July 17, 2013 and materials contained in the administrative record prior to issuance of this Discharge Permit. The

discharge shall be managed in accordance with all conditions and requirements of this Discharge Permit.

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

Issuance of this Discharge Permit does not relieve the permittee of the responsibility to comply with the WQA, WQCC Regulations, and any other applicable federal, state, and/or local laws, regulations, zoning requirements, and nuisance ordinances.

The following acronyms and abbreviations may be used in this Discharge Permit:

Abbreviation	Explanation	Abbreviation	Explanation
EPA	United States Environmental Protection Agency	TCEQ	Texas Commission on Environmental Quality
gpd	gallons per day	TLAP	Texas Land Application Permit
mg/L	milligrams per liter	WQA	New Mexico Water Quality Act
mL	milliliters	WQCC	Water Quality Control Commission
NMAC	New Mexico Administrative Code		
NMED	New Mexico Environment Department		
NMSA	New Mexico Statutes Annotated		

II. FINDINGS

In issuing this Discharge Permit, NMED finds:

1. The permittee is discharging non-contact storm water and other water authorized by TPDES Permits to be discharged in Texas from Outfalls 001 and 002 so that such water may move directly or indirectly into groundwater in New Mexico within the meaning of Section 20.6.2.3104 NMAC.
2. The permittee is discharging non-contact storm water and other water authorized by TPDES Permits to be discharged in Texas from Outfalls 001 and 002 so that such water may move into groundwater of the State of New Mexico which has an existing

concentration of 10,000 mg/L or less of TDS within the meaning of Subsection A of 20.6.2.3101 NMAC.

3. The discharge from the Waste Management Facility is not subject to any of the exemptions of Section 20.6.2.3105 NMAC.

III. CONDITIONS

Pursuant to 20.6.2.3104 NMAC, it is the responsibility of the permittee to ensure that discharges authorized by this Discharge Permit are consistent with the terms and conditions herein. NMED issues this Discharge Permit for the discharge of water contaminants subject to the following conditions.

A. OPERATIONAL PLAN

#	Terms and Conditions
1.	The permittee shall implement the following operational plan to ensure compliance with Title 20, Chapter 6, Parts 1 and 2 NMAC. [Subsection C of 20.6.2.3109 NMAC]
2.	The permittee shall operate in a manner such that standards and requirements of Sections 20.6.2.3101 and 20.6.2.3103 NMAC are not violated. [20.6.2.3101 NMAC, 20.6.2.3103 NMAC, Subsection C of 20.6.2.3109 NMAC]
3.	The permittee is authorized to discharge non-contact storm water and other water authorized by TPDES Permits via monitored Outfalls 001 and 002 in Texas. [20.6.2.3104 NMAC, Subsection C of 20.6.2.3106 NMAC, Subsection C of 20.6.2.3109 NMAC]
4.	The permittee shall maintain 18 to 24-inch berms around the stockpile area to prevent surface water run-on and run-off. The berms shall be inspected on a regular basis, and after any major precipitation event, and be repaired as necessary. [Subsection C of 20.6.2.3109 NMAC]

B. MONITORING, REPORTING, AND OTHER REQUIREMENTS

#	Terms and Conditions
5.	The permittee shall conduct the monitoring, reporting, and other requirements listed below. [20.6.2.3107 NMAC]

#	Terms and Conditions
6.	<p>METHODOLOGY - Unless otherwise approved in writing by NMED, the permittee shall conduct sampling and analysis in accordance with the applicable and most recent edition of the following documents:</p> <ol style="list-style-type: none"> a) American Public Health Association, Standard Methods for the Examination of Water and Wastewater (18th , 19th or current); or b) U.S. Environmental Protection Agency, Methods for Chemical Analysis of Water and Waste (SW846); or c) U.S. Geological Survey, Techniques for Water Resources Investigations of the U.S. Geological Survey; or d) American Society for Testing and Materials, Annual Book of ASTM Standards, Part 31. Water; or e) Federal Register, latest methods published for monitoring pursuant to Resources Conservation Recovery Act regulations; or f) U.S. Geological Survey, et al., National Handbook of Recommended Methods for Water Data Acquisition; or g) Methods of Soil Analysis: Part 1. Physical and Mineralogical Methods; Part 2. Microbiological and Biochemical Properties; and Part 3. Chemical Methods, American Society of Agronomy. <p>[20.6.2.3107.B NMAC]</p>
7.	<p>The permittee shall submit semi-annual monitoring reports to NMED by the 1st of February and August each year.</p> <p>A semi-annual monitoring event shall be performed during the following periods:</p> <ul style="list-style-type: none"> • January 1st through June 30th (first half) – report due by August 1st; and • July 1st through December 31st (second half) – report due by February 1st. <p>[20.6.2.3107 NMAC]</p>

Groundwater Monitoring Conditions

#	Terms and Conditions
8.	<p>The permittee shall perform semi-annual groundwater sampling in the following monitoring wells and shall perform analysis of the sampled groundwater for the contaminants specified in Appendix A:</p> <ol style="list-style-type: none"> a. NM-1 located in New Mexico hydrologically downgradient and southwest of Outfall 002, if it becomes saturated. b. Existing WCS monitoring well TP-62 located in Texas east-northeast of Outfall 002 and south-southwest of the HWF and the FWDF Evaporation Pond, if it becomes saturated. TP-62 shall be sampled and the results reported to NMED but it is not subject to standards set forth in 20.6.2.3101 NMAC or Subsection WW of 20.6.2.7 NMAC.

#	Terms and Conditions
	<p>A table listing the monitoring wells is set forth at Appendix B and a map depicting the general location of the monitoring wells is set forth at Appendix C.</p> <p>Groundwater sample collection, preservation, transport, and analysis shall be performed according to the following procedures:</p> <ol style="list-style-type: none"> a) Measure the depth-to-most-shallow groundwater from the top of the well casing to the nearest hundredth of a foot. Well sampling must be conducted whenever it is determined that: (1) water is groundwater and (2) a saturated condition exists. The method for water sampling is intended to assure that well samples are taken from groundwater in the formation and not from condensation in the well. b) For the collection of representative groundwater samples, the permittee shall allow for parameter stabilization during the purging process prior to sample collection. The permittee shall monitor water quality parameters (conductivity, pH, and temperature) according to ASTM D 4448-01 Standard Guide for Sampling Ground-Water Monitoring Wells (2007). Prior to sampling, wells must be pumped down to the point at which the conductivity equilibrates. Samples must then be acquired from the well by a pump or lowering and filling a sample bailer with well water and then transferring the water to a sample container. All parameter readings must be recorded during purging and collected at regular intervals. Stabilization is achieved when at least three consecutive readings are taken at three to five minute intervals and are within tolerances stated in ASTM D 4448-01. When sufficient recharge of water exists, wells will be purged before a sample is collected. If documented insufficient recharge of water exists or other factors make purging and/or sampling impractical, the conditions and reasons must be documented in the semi-annual report. For well-specific conditions (i.e., rate of recharge, water quantity, etc.) where low-flow sampling techniques are appropriate, sampling method ASTM D 6771-02 Standard Practice for Low-Flow Purging and Sampling for Wells and Devices Used for Ground-Water Quality Investigations must be used for sampling methodologies. Parameter readings will be recorded as specified in ASTM 06771-02 for determining stabilization. c) Properly prepare, preserve, and transport samples. d) Analyze samples in accordance with the methods authorized in Condition 6 in this Discharge Permit or as required in the permittee's Radiological Materials License, R04100. <p>The following groundwater monitoring information shall be submitted to NMED in the semi-annual monitoring reports:</p> <ul style="list-style-type: none"> • Depth-to-most-shallow groundwater measurements • analytical results, including the laboratory QA/QC summary report <p>If a well designated within this permit does not contain sufficient groundwater to sample, the permittee will document this in the semi-annual monitoring report.</p>

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	<p>After analytical results for two consecutive sampling events have been submitted to NMED, the permittee may propose to revise the list of contaminants required to be analyzed pursuant to Appendix A.</p> <p>[Subsection A of 20.6.2.3107 NMAC]</p>
9.	<p>NMED shall have the option to perform downhole inspections of all New Mexico monitoring wells identified in this Discharge Permit. NMED shall establish the inspection date and provide at least 60 days' notice to the permittee by certified mail. The permittee shall have any existing dedicated pumps removed at least 48 hours prior to NMED inspection to allow adequate settling time of sediment agitated from pump removal.</p> <p>Should a permittee not have existing dedicated pumps, but decide to install pumps in any of the monitoring wells, NMED shall be notified at least 90 days prior to pump installation so that a downhole well inspection(s) can be scheduled prior to pump placement.</p> <p>[20.6.2.3107 NMAC]</p>

Submission of Data Conditions

#	Terms and Conditions
10.	<p>The permittee shall submit a copy of reports submitted to TCEQ for monitoring of effluent characteristics at Outfall 101 in accordance with TPDES Permit No. WQ0004038000. Each report shall be submitted to NMED in the next semi-annual monitoring report following submission of the report to TCEQ.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsections C and H of 20.6.2.3109 NMAC]</p>
11.	<p>The permittee shall submit a copy of the report submitted to TCEQ for monitoring of effluent characteristics at Outfall 001 if a discharge is observed as required by Other Requirement No. 13 in accordance with TPDES Permit No. WQ0004038000. The report shall be submitted to NMED in the next semi-annual monitoring report following submission of the report to TCEQ.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsections C and H of 20.6.2.3109 NMAC]</p>
12.	<p>The permittee shall submit copies of the Quarterly OAG Water Level Report submitted to TCEQ pursuant to its Radioactive Materials License No. 004100. The reports shall be submitted to NMED in the next semi-annual monitoring report following submission of the report to TCEQ.</p>

#	Terms and Conditions
	[Subsection A of 20.6.2.3107 NMAC]
13.	<p>The permittee shall submit a copy of the Annual Detection Monitoring Report required pursuant to its RCRA Hazardous Waste Permit No. 50358. The report shall be submitted to NMED in the next semi-annual monitoring report following submission of the report to TCEQ.</p> <p>[Subsection A of 20.6.2.3107 NMAC]</p>
14.	<p>Permittee shall submit a copy of groundwater data for monitoring well TP-31 contained in the Radiological Environmental Monitoring Program submitted annually to TCEQ. The data shall be submitted to NMED in the next semi-annual report following submission of the data to TCEQ.</p>

C. CONTINGENCY PLAN

#	Terms and Conditions
15.	<p>In the event that sample results from NM-1 indicate that groundwater in NM-1 exceeds a groundwater quality standard set forth at 20.6.2.3103 NMAC or WW 20.6.2.7 NMAC for any constituent identified in Appendix A, the permittee shall enact the following contingency plan:</p> <p>Within 24 hours following discovery of the possible exceedance of a groundwater standard enumerated above for a constituent listed in Appendix A, the permittee shall verbally notify NMED providing the date the sample was collected, the specific chemical constituent(s) that exceeded the standards, and the measured constituent concentrations.</p> <p>Within 30 days after identifying the exceedance, the permittee shall collect a confirmation sample from the subject groundwater monitoring well to confirm the initial sampling results for the specific constituents that exceeded the standards. Should there be insufficient groundwater in the subject well to collect a confirmation sample, the permittee shall on a weekly basis reevaluate the well for the presence of sufficient water and shall collect a confirmation sample at the earliest possible time.</p> <p>Within 30 days after collecting the confirmation sample, the permittee shall report the results of the analysis of the confirmation sample to NMED.</p> <p>If the confirmation sample confirms the initial sampling results for the specific constituents that exceeded the standards, then the permittee shall submit a workplan within 120 days for NMED's approval proposing to provide historical data from other</p>

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	<p>sources and/or sample a sufficient number of existing and saturated wells located in the OAG over a sufficient amount of time in order to establish existing conditions for the constituents listed on Appendix A that have been confirmed to exceed the standards specified above.</p> <p>After NMED's approval of the workplan and the results of the workplan, which establish the existing conditions for the constituents listed on Appendix A that exceeded the standards specified above, if the results from NM-1 exceed existing conditions, the permittee shall submit a second workplan within 120 days from the date of the determination of the exceedance for NMED's approval addressing the following:</p> <ol style="list-style-type: none"> a. Construction of a groundwater monitoring well into the uppermost aquifer, i.e., the 225-foot zone, proximal to NM-1. b. Groundwater sampling for those constituents for which the results from NM-1 exceeded existing conditions. c. If the sample results from the 225-foot zone indicate an exceedance above the established existing conditions for NM-1, then permittee will submit a proposal to provide historical data from other sources and/or sample a sufficient number of existing and saturated wells located in the 225-zone over a sufficient amount of time in order to establish existing conditions in the 225-zone for those constituents or propose other actions (including additional ground water sampling) to investigate and control the source. d. Associated completion schedules. <p>Once invoked (whether during the term of this Discharge Permit or after the term of this Discharge Permit and prior to the completion of the Discharge Permit closure plan requirements), this condition shall apply until the permittee has fulfilled the requirements of this condition and groundwater monitoring in the deeper zone confirms for a minimum of two years of consecutive groundwater sampling events that the standards of Section 20.6.2.3103 NMAC or existing conditions determined as set forth above are not exceeded.</p> <p>The permittee may be required to abate water pollution pursuant to Sections 20.6.2.4000 through 20.6.2.4115 NMAC, in the 225-foot zone, should the corrective action plan not result in compliance with the standards of Section 20.6.2.3103 NMAC or existing conditions determined as set forth above.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection E of 20.6.2.3109 NMAC]</p>
16.	<p>In the event that information available to NMED indicates that a well(s) in New Mexico is not constructed in a manner consistent with NMED approved well completion specifications or the guidance titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.1, March 2011; or is not completed in a manner that is protective of groundwater quality, the permittee may be required to install a replacement well(s) in New Mexico or propose an existing WCS monitoring well within 120 days following notification from NMED. The permittee shall</p>

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	<p>survey the replacement monitoring well(s) within 150 days following notification from NMED.</p> <p>New and existing replacement well location(s) shall be approved by NMED prior to installation or use. New replacement wells in New Mexico shall be completed in accordance with NMED approved well completion specifications or the guidance titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.1, March 2011. The permittee shall submit construction and lithologic logs, survey data and (if possible, using accepted hydrogeologic principles,) a groundwater elevation contour map to NMED within 60 days following replacement well completion or NMED approval of the use of existing replacement monitoring well(s).</p> <p>Upon completion/approval of the replacement monitoring well(s), New Mexico monitoring well(s) requiring replacement shall be properly plugged and abandoned. Well plugging, abandonment, and documentation of the abandonment procedures shall be completed pursuant to 19.27.4 NMAC as required by the New Mexico Office of the State Engineer or the guidance titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.1, March 2011, and all applicable local, state, and federal regulations. The well abandonment documentation shall be submitted to NMED within 60 days of completion of well plugging activities.</p> <p>[Subsection A of 20.6.2.3107 NMAC]</p>
17.	<p>In the event that groundwater flow information obtained pursuant to this Discharge Permit indicates that a monitoring well(s) is not located in the groundwater horizon it is intended to monitor, the permittee shall install a replacement well(s) in New Mexico or propose use of an existing WCS monitoring well within 120 days following notification from NMED. The permittee shall survey the replacement monitoring well(s) within 150 days following notification from NMED.</p> <p>Replacement well location(s) shall be approved by NMED prior to installation or use and, if installed in New Mexico, completed in accordance with the guidance titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.1, March 2011. Within 30 days following well completion, the permittee shall submit construction and lithologic logs, survey data and (if possible, using accepted hydrogeologic principles,) a groundwater elevation contour map.</p> <p>Upon completion/approval of the replacement monitoring well(s), New Mexico monitoring well(s) requiring replacement shall be properly plugged and abandoned. Well plugging, abandonment, and documentation of the abandonment procedures for wells located in New Mexico shall be completed pursuant to 19.27.4 NMAC as required by the New Mexico Office of the State Engineer or the guidance titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.1, March 2011, and all applicable local, state, and federal regulations. The</p>

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	<p>well abandonment documentation shall be submitted to NMED within 60 days of completion of well plugging activities.</p> <p>[Subsection A of 20.6.2.3107 NMAC]</p>
18.	<p>In the event that a discharge occurs into New Mexico that is not authorized under this Discharge Permit, the permittee shall take measures to mitigate damage from the unauthorized discharge and initiate the notifications and corrective actions required in Section 20.6.2.1203 NMAC and summarized below.</p> <p>Within <u>24 hours</u> following discovery of the unauthorized discharge into New Mexico, the permittee shall verbally notify NMED and provide the following information:</p> <ol style="list-style-type: none"> a) The name, address, and telephone number of the person or persons in charge of the Waste Management Facility, as well as of the owner and/or operator of the Waste Management Facility. b) The name and address of the Waste Management Facility. c) The date, time, location, and duration of the unauthorized discharge. d) The source and cause of unauthorized discharge. e) A description of the unauthorized discharge, including its estimated chemical composition. f) The estimated volume of the unauthorized discharge. g) Any actions taken to mitigate immediate damage from the unauthorized discharge. <p>Within <u>one week</u> following verification of the unauthorized discharge into New Mexico, the permittee shall submit written notification to NMED with the information listed above and any pertinent updates.</p> <p>Within <u>15 days</u> following discovery of the unauthorized discharge into New Mexico, the permittee shall submit a corrective action report/plan to NMED describing any corrective actions taken and/or to be taken relative to the unauthorized discharge into New Mexico that includes the following:</p> <ol style="list-style-type: none"> a) A description of proposed actions to mitigate damage from the unauthorized discharge into New Mexico. b) A description of proposed actions to prevent future unauthorized discharges of this nature into New Mexico. c) A schedule for completion of proposed actions. <p>In the event that the unauthorized discharge into New Mexico causes or may with reasonable probability cause water pollution in excess of the standards and requirements of Section 20.6.2.4103 NMAC, and the water pollution will not be abated within 180 days after notice is required to be given pursuant to Paragraph (1) of Subsection A of 20.6.2.1203 NMAC, the permittee may be required to abate water pollution pursuant to Sections 20.6.2.4000 through 20.6.2.4115 NMAC.</p>

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	<p>Nothing in this condition shall be construed as relieving the permittee of the obligation to comply with all requirements of Section 20.6.2.1203 NMAC.</p> <p>[20.6.2.1203 NMAC]</p>
19.	<p>In the event that NMED or the permittee identifies any failures of the discharge plan or this Discharge Permit not specifically noted herein, NMED may require the permittee to submit a corrective action plan and a schedule for completion of corrective actions to address the failure(s). Additionally, NMED may require a Discharge Permit modification to achieve compliance with 20.6.2 NMAC.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection E of 20.6.2.3109 NMAC]</p>

D. CLOSURE PLAN

#	Terms and Conditions
20.	<p>Closure of the Waste Management Facility will be accomplished under Closure Plans and Post-Closure Monitoring Plans approved and administered by the TCEQ. Upon receipt of notification from TCEQ that closure has been completed in compliance with these plans and the Post-Closure Monitoring Plan has been implemented, WCS shall:</p> <ol style="list-style-type: none"> a) Provide documentation to NMED of satisfaction of TCEQ closure plan obligations. b) Submit proof to NMED that all closure activities set forth under 40 CFR Part 503 have been completed. c) Following completion of the Closure Monitoring Plans approved and administered by the TCEQ, continue groundwater monitoring as required by this Discharge Permit for a minimum of two years of consecutive groundwater sampling events to confirm the absence of groundwater contamination. If monitoring results show that the groundwater standards in Section 20.6.2.3103 NMAC are being violated for the constituents listed on Appendix A, the permittee shall implement the contingency plan required by this Discharge Permit. If an existing pH or concentration of any water contaminant listed on Appendix A can be demonstrated as set forth in paragraph 15, above, to exceed the standard specified in Subsection A, B, or C of 20.6.2.3103 NMAC, the existing pH or concentration shall be the allowable limit. d) Following notification from NMED that post-closure monitoring may cease, the permittee shall plug and abandon the monitoring well(s) located in New Mexico pursuant to 19.27.4 NMAC as required by the New Mexico Office of the State Engineer or the guidance titled <i>Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions</i>, Revision 1.1, March 2011. <p>When all closure and post-closure requirements have been met, the permittee may submit a written request for termination of the Discharge Permit to NMED.</p> <p>[Subsection A of 20.6.2.3107 NMAC, 20.6.2.3109 NMAC, 40 CFR Part 503]</p>

E. GENERAL TERMS AND CONDITIONS

#	Terms and Conditions
21.	<p>RECORD KEEPING - The permittee shall maintain a written record of:</p> <ul style="list-style-type: none"> a) Information and data used to complete the application for this Discharge Permit. b) Records of any releases not authorized under this Discharge Permit and reports submitted pursuant to 20.6.2.1203 NMAC. c) Copies of monitoring reports completed and/or submitted to NMED pursuant to this Discharge Permit. d) Groundwater quality and wastewater quality data collected pursuant to this Discharge Permit. e) Copies of construction records (well logs) for all groundwater monitoring wells required to be sampled pursuant to this Discharge Permit. f) Records of the maintenance, repair, replacement, or calibration of any monitoring equipment or flow measurement devices required by this Discharge Permit. g) Data and information related to field measurements, sampling, and analysis conducted pursuant to this Discharge Permit. The following information shall be recorded and shall be made available to NMED upon request: <ul style="list-style-type: none"> i. The dates, location, and times of sampling or field measurements; ii. The name and job title of the individuals who performed each sample collection or field measurement; iii. The sample analysis date of each sample; iv. The name and address of the laboratory, and the name of the signatory authority for the laboratory analysis; v. The analytical technique or method used to analyze each sample or collect each field measurement; vi. The results of each analysis or field measurement, including raw data; vii. The results of any split, spiked, duplicate, or repeat sample; and viii. A copy of the laboratory analysis chain-of-custody as well as a description of the quality assurance and quality control procedures used. <p>The written record shall be maintained by the permittee at a location accessible during an inspection by NMED for a period of at least five years from the date of application, report, collection, or measurement and shall be made available to the department upon request.</p> <p>[Subsections A and D of 20.6.2.3107 NMAC]</p>
22.	<p>INSPECTION and ENTRY – The permittee shall allow inspection by NMED of the Facility and its operations which are subject to this Discharge Permit and the WQCC regulations. NMED may, upon presentation of proper credentials, enter at reasonable times upon or through any premises in which a water contaminant source is located or in which are located any records required to be maintained by regulations of the federal government or the WQCC.</p>

#	Terms and Conditions
	<p>The permittee shall allow NMED to have access to and reproduce for their use any copy of the records and to perform assessments, sampling, or monitoring during an inspection for the purpose of evaluating compliance with this Discharge Permit and the WQCC regulations.</p> <p>Nothing in this Discharge Permit shall be construed as limiting in any way the inspection and entry authority of NMED under the WQA, the WQCC Regulations, or any other local, state or federal regulations.</p> <p>[Subsection D of 20.6.2.3107 NMAC, NMSA 1978, §§ 74-6-9.B and 74-6-9.E]</p>
23.	<p>DUTY to PROVIDE INFORMATION - The permittee shall, upon NMED's request, allow for NMED's inspection/duplication of records required by this Discharge Permit and/or furnish to NMED copies of such records.</p> <p>[Subsection D of 20.6.2.3107 NMAC]</p>
24.	<p>MODIFICATIONS and/or AMENDMENTS – In the event the permittee proposes a change to the Waste Management Facility or the Waste Management Facility's discharge that would result in a change in the volume discharged into New Mexico; the location of the discharge into New Mexico; or in the amount or character of water contaminants received, treated, or discharged by the Waste Management Facility into New Mexico, the permittee shall notify NMED prior to implementing such changes. The permittee shall obtain approval (which may require modification of this Discharge Permit) by NMED prior to implementing such changes.</p> <p>[Subsection C of 20.6.2.3107 NMAC, Subsections E and G of 20.6.2.3109 NMAC]</p>
25.	<p>CIVIL PENALTIES - Any violation of the requirements and conditions of this Discharge Permit, including any failure to allow NMED staff to enter and inspect records or the Facility or any refusal or failure to provide NMED with records or information, may subject the permittee to a civil enforcement action. Pursuant to WQA 74-6-10(A) and (B), such action may include a compliance order requiring compliance immediately or in a specified time, assessing a civil penalty, modifying or terminating the Discharge Permit, or any combination of the foregoing; or an action in district court seeking injunctive relief, civil penalties, or both. Pursuant to WQA 74-6-10(C) and 74-6-10.1, civil penalties of up to \$15,000 per day of noncompliance may be assessed for each violation of the WQA 74-6-5, the WQCC Regulations, or this Discharge Permit, and civil penalties of up to \$10,000 per day of noncompliance may be assessed for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision. In any action to enforce this Discharge Permit, the permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Discharge Permit.</p> <p>[20.6.2.1220 NMAC, NMSA 1978, §§ 74-6-10 and 74-6-10.1]</p>
26.	<p>CRIMINAL PENALTIES – No person shall:</p>

#	Terms and Conditions
	<ol style="list-style-type: none"> 1. make any false material statement, representation, certification, or omission of material fact in an application, record, report, plan, or other document filed, submitted, or required to be maintained under the WQA; 2. falsify, tamper with, or render inaccurate any monitoring device, method, or record required to be maintained under the WQA; or 3. fail to monitor, sample or report as required by a permit issued pursuant to a state or federal law or regulation. <p>Any person who knowingly violates or knowingly causes or allows another person to violate the requirements of this condition is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who is convicted of a second or subsequent violation of the requirements of this condition is guilty of a third degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements of this condition or knowingly causes another person to violate the requirements of this condition and thereby causes a substantial adverse environmental impact is guilty of a third degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements of this condition and knows at the time of the violation that he is creating a substantial danger of death or serious bodily injury to any other person is guilty of a second degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15.</p> <p>[20.6.2.1220 NMAC, NMSA 1978, §§ 74-6-10.2.A through 74-6-10.2.F]</p>
27.	<p>COMPLIANCE with OTHER LAWS - Nothing in this Discharge Permit shall be construed in any way as relieving the permittee of the obligation to comply with all applicable federal, state, and local laws, regulations, permits or orders.</p> <p>[NMSA 1978, § 74-6-5.L]</p>
28.	<p>RIGHT to APPEAL - The permittee may file a petition for review before the WQCC on this Discharge Permit. Such petition shall be in writing to the WQCC within thirty days of the receipt of postal notice of this Discharge Permit and shall include a statement of the issues to be raised and the relief sought. Unless a timely petition for review is made, the decision of NMED shall be final and not subject to judicial review.</p> <p>[20.6.2.3112 NMAC, NMSA 1978, § 74-6-5.O]</p>
29.	<p>TRANSFER of DISCHARGE PERMIT - Prior to the transfer of any ownership, control, or possession of the Waste Management Facility or any portion thereof, the permittee shall:</p> <ol style="list-style-type: none"> 1) notify the proposed transferee in writing of the existence of this Discharge Permit; 2) include a copy of this Discharge Permit with the notice; and 3) deliver or send by certified mail to NMED a copy of the notification and proof that such notification has been received by the proposed transferee.

#	Terms and Conditions
	<p>Until both ownership and possession of the Waste Management Facility have been transferred to the transferee, the permittee shall continue to be responsible for any discharge from the Waste Management Facility.</p> <p>[20.6.2.3111 NMAC]</p>
30.	<p>PERMIT FEES - Payment of permit fees is due at the time of Discharge Permit approval. Permit fees shall be paid in a single payment or shall be paid in equal installments on a yearly basis over the term of the Discharge Permit. Single payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date. Initial installment payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date; subsequent installment payments shall be remitted to NMED no later than the anniversary of the Discharge Permit effective date.</p> <p>Permit fees are associated with issuance of this Discharge Permit. Nothing in this Discharge Permit shall be construed as relieving the permittee of the obligation to pay all permit fees assessed by NMED. A permittee that ceases discharging or does not commence discharging from the Waste Management Facility during the term of the Discharge Permit shall pay all permit fees assessed by NMED. An approved Discharge Permit shall be suspended or terminated if the permittee fails to remit an installment payment by its due date.</p> <p>[Subsection F of 20.6.2.3114 NMAC, NMSA 1978, § 74-6-5.K]</p>

PERMIT TERM & SIGNATURE

EFFECTIVE DATE: [effective date]

TERM ENDS: [expiration date]

[Subsection H of 20.6.2.3109 NMAC, NMSA 1978, § 74-6-5.I]

MICHELLE HUNTER
Chief, Ground Water Quality Bureau
New Mexico Environment Department

Appendix A – Table of Analytes

Constituent
Acetone
Benzene
Bromoform (Tribromomethane)
Carbon disulfide
Carbon tetrachloride
Chlorobenzene
Cyanide
Chlorodibromomethane (Dibromochloromethane)
Chloroethane (Ethyl chloride)
Chloroform
1,1-Dichloroethane
1,2-Dichloroethane
Cis-1,3-Dichloropropylene (1,3-Dichloropropene)
Trans-1,3-Dichloropropylene (1,3-Dichloropropene)
1,4-Dioxane
Ethylbenzene
Methyl bromide (Bromomethane)
Methyl chloride (Chloromethane)
Phenol
1,1,2,2-Tetrachloroethane
Tetrachloroethene
Toluene
1,2-trans-Dichloroethylene (trans-1,2-Dichloroethene)
1,1,1-Trichloroethane
1,1,2-Trichloroethane
Trichloroethylene
Vinyl chloride
Aluminum*
Antimony*
Arsenic*
Barium*
Cadmium*
Chloride
Chromium*
Copper*
Iron*
Lead*
Nickel*
Nitrate-N
Silver*
Selenium*
Sulphate
Uranium*
Vanadium*
Zinc*
Radioactivity (Ra-226 + Ra-228)
pH
TPH

*Samples shall be analyzed for the dissolved portion of the contaminant specified.

Appendix B - Table of Monitoring Wells

Well Identifier	Obligation	Associated Groundwater Zone	Well purpose	Monitored for water level	Contaminant Type	Location
NM-1	sample and report	OAG	monitor downgradient of Outfall 002	yes	Appendix A	NM
TP-62	sample and report	OAG	monitor upgradient of Outfall 002	yes	Appendix A	TX

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Appendix C – WCS Facility Map

