



TPDES PERMIT NO. WQ0003511000  
*[For TCEQ office use only -*  
*EPA I.D. No. TX0109011]*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
P. O. Box 13087  
Austin, Texas 78711-3087

This is a renewal of TPDES Permit  
No. WQ0003511000, issued on  
November 16, 2006.

PERMIT TO DISCHARGE WASTES  
under provisions of  
Section 402 of the Clean Water Act  
and Chapter 26 of the Texas Water Code

Dos Republicas Coal Partnership

whose mailing address is

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5150 North Loop 1604 West  
San Antonio, Texas 78249

is authorized to treat and discharge wastes from the Eagle Pass Mine, a sub-bituminous coal mine (SIC 1221)

located on the northeast side of State Highway 1588, three miles northeast of U.S. Highway 277, and approximately five miles northeast of the City of Eagle Pass, Maverick County, Texas

to unnamed ditches; thence to Elm Creek; thence to the Rio Grande Below Amistad Reservoir in Segment No. 2304 of the Rio Grande Basin

only according to effluent limitations, monitoring requirements and other conditions set forth in this permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight on September 1, 2015.

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ISSUED DATE:

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For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Numbers 001 through 013

1. During the period beginning upon the date of issuance and lasting through the date of expiration, the permittee is authorized to discharge storm water and mine seepage from the active mining area (\*1) subject to the following effluent limitations:

Volume: Intermittent and flow variable

| Effluent Characteristics     | Discharge Limitations |                       | Minimum Self-Monitoring Requirements |   |             |
|------------------------------|-----------------------|-----------------------|--------------------------------------|---|-------------|
|                              | Daily Average<br>mg/l | Daily Maximum<br>mg/l | Single Grab<br>mg/l                  | Report Daily Average and Daily Maximum<br>Measurement Frequency | Sample Type |
| Flow (MGD)                   | (Report MGD)          | (Report MGD)          | N/A                                  | 1/week (*2)   | Estimate    |
| Total Suspended Solids (TSS) | 35                    | 70                    | 70                                   | 1/week (*2)   | Grab        |
| Total Iron                   | 3.0                   | 6.0                   | 6.0                                  | 1/week (*2)   | Grab        |
| Total Manganese              | 2.0                   | 4.0                   | 4.0                                  | 1/week (*2)   | Grab        |
| Total Selenium               | N/A                   | 0.036                 | 0.036                                | 1/month (*2)  | Grab        |

(\*1) See Other Requirement No. 2.

(\*2) When discharge occurs.

2. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/week (\*2) by grab sample.
3. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
4. Effluent monitoring samples shall be taken at the following locations: At Outfalls 001 through 013, at the spillway retention pond associated with each outfall (see Other Requirement No. 3), and prior to mixing with any other waters.

**DEFINITIONS AND STANDARD PERMIT CONDITIONS**

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC §§305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code (TWC) §§5.103 and 5.105, and the Texas Health and Safety Code (THSC) §§361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in Texas Water Code §26.001 and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

**1. Flow Measurements**

- a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder, and limited to major domestic wastewater discharge facilities with a one million gallons per day or greater permitted flow.
- b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.
- d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.
- e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.
- f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

**2. Concentration Measurements**

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
  - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.
  - ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.
- d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day.

The "daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

- e. Bacteria concentration (Fecal coliform, E. coli, or Enterococci) - the number of colonies of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month.

The geometric mean shall be determined by calculating the nth root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements of made in a calendar month. For any measurement of bacteria equaling zero, a substitute value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.

- f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
  - g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.
3. Sample Type
    - a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (b).
    - b. Grab sample - an individual sample collected in less than 15 minutes.
  4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
  5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes .
  6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

## MONITORING AND REPORTING REQUIREMENTS

### 1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§319.4 - 319.12. Unless otherwise specified, a monthly effluent report shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge that is described by this permit whether or not a discharge is made for that month. Monitoring results must be reported on an approved self-report form that is signed and certified as required by Monitoring and Reporting Requirements No. 10.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act; TCW Chapters 26, 27, and 28; and THSC Chapter 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

### 2. Test Procedures

- a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.
- b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

### 3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.

- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR §264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
- date, time, and place of sample or measurement;
  - identity of individual who collected the sample or made the measurement.
  - date and time of analysis;
  - identity of the individual and laboratory who performed the analysis;
  - the technique or method of analysis; and
  - the results of the analysis or measurement and quality assurance/quality control records.

The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that may be instituted against the permittee.

#### 4. 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, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

#### 5. Calibration of Instruments

All automatic flow measuring or recording devices and all totalizing meters for measuring flows shall be accurately calibrated by a trained person at plant start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually unless authorized by the Executive Director for a longer period. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained at the facility site and/or shall be readily available for review by a TCEQ representative for a period of three years.

#### 6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

#### 7. Noncompliance Notification

- a. In accordance with 30 TAC §305.125(9) any noncompliance that may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
- b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:
- Unauthorized discharges as defined in Permit Condition 2(g).
  - ~~Any unanticipated bypass that exceeds any effluent limitation in the permit.~~
  - Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.
- c. In addition to the above, any effluent violation that deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.

- d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
8. In accordance with the procedures described in 30 TAC §§35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional Office and the Enforcement Division (MC 224) in writing within five (5) working days, after becoming aware of or having reason to believe:

- a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - i. One hundred micrograms per liter (100 µg/L);
  - ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
  - iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
  - iv. The level established by the TCEQ.
- b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - i. Five hundred micrograms per liter (500 µg/L);
  - ii. One milligram per liter (1 mg/L) for antimony;
  - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
  - iv. The level established by the TCEQ.

#### 10. Signatories to Reports

All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC §305.128 (relating to Signatories to Reports).

11. All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Executive Director of the following:
  - a. Any new introduction of pollutants into the POTW from an indirect discharger that would be subject to CWA §301 or §306 if it were directly discharging those pollutants;
  - b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
  - c. For the purpose of this paragraph, adequate notice shall include information on:
    - i. The quality and quantity of effluent introduced into the POTW; and
    - ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

### PERMIT CONDITIONS

#### 1. General

- a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.
- b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:

- i. Violation of any terms or conditions of this permit;
  - ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
  - iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending, or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

## 2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
- b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.
- c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.
- e. ~~Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.~~
- f. ~~A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§305.62 and 305.66 and TWC §7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.~~
- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.
- h. In accordance with 30 TAC §305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility that does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
- i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§402 (a)(3) or 402 (b)(8).

## 3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC Chapter 361.
- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the Commission. ~~Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC §7.002.~~

The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

#### 4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
  - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC §305.534 (relating to New Sources and New Dischargers); or
  - ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9;
  - iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
- c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
- d. Prior to accepting or generating wastes that are not described in the permit application or that would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.
- e. In accordance with the TWC §26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA §307(a) for a toxic pollutant that is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA §307(a) for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

#### 5. Permit Transfer

- a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.
- b. A permit may be transferred only according to the provisions of 30 TAC §305.64 (relating to Transfer of Permits) and 30 TAC §50.133 (relating to Executive Director Action on Application or WQMP update).

#### 6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal that requires a permit or other authorization pursuant to the Texas Health and Safety Code.

## 7. Relationship to Water Rights

Disposal of treated effluent by any means other than discharge directly to water in the state must be specifically authorized in this permit and may require a permit pursuant to Texas Water Code Chapter 11.

## 8. Property Rights

A permit does not convey any property rights of any sort, or any exclusive privilege.

## 9. Permit Enforceability

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

## 10. Relationship to Permit Application

The application pursuant to which the permit has been issued is incorporated herein; provided, however, that in the event of a conflict between the provisions of this permit and the application, the provisions of the permit shall control.

## 11. Notice of Bankruptcy.

- a. Each permittee shall notify the executive director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:
  - i. the permittee;
  - ii. an entity (as that term is defined in 11 USC, §101(15)) controlling the permittee or listing the permit or permittee as property of the estate; or
  - iii. an affiliate (as that term is defined in 11 USC, §101(2)) of the permittee.
- b. This notification must indicate:
  - i. the name of the permittee;
  - ii. the permit number(s);
  - iii. the bankruptcy court in which the petition for bankruptcy was filed; and
  - iv. the date of filing of the petition.

**OPERATIONAL REQUIREMENTS**

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.
2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§319.21 - 319.29 concerning the discharge of certain hazardous metals.
3. Domestic wastewater treatment facilities shall comply with the following provisions:
  - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
  - b. The permittee shall submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.
4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under TWC §7.302(b)(6).

7. Documentation

For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information required for TPDES permit applications, effluent data, including effluent data in permits, draft permits and permit applications, and other information specified as not confidential in 30 TAC §1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

8. Facilities that generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.
  - a. Whenever flow measurements for any domestic sewage treatment facility reach 75% of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. Whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility that reaches 75% of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

If in the judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 149) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.
  - c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.

11. Facilities that generate industrial solid waste as defined in 30 TAC §335.1 shall comply with these provisions:
- a. Any solid waste, as defined in 30 TAC §335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
  - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
  - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC §335.8(b)(1), to the Corrective Action Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
  - d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC §335.5.
  - e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
  - f. ~~The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:~~
    - i. Volume of waste and date(s) generated from treatment process;
    - ii. Volume of waste disposed of on-site or shipped off-site;
    - iii. Date(s) of disposal;
    - iv. Identity of hauler or transporter;
    - v. Location of disposal site; and
    - vi. Method of final disposal.

The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.

12. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with THSC Code Chapter 361.

OTHER REQUIREMENTS

1. Violations of daily maximum limitations for the following pollutants shall be reported orally or by facsimile to TCEQ Region 16, within 24 hours from the time the permittee becomes aware of the violation followed by a written report within five working days to Texas Commission on Environmental Quality (TCEQ) Region 16 and the Enforcement Division (MC 224).

| <u>POLLUTANT</u> | <u>MAL (mg/l)</u> |
|------------------|-------------------|
| Iron, total      | 1.0               |
| Manganese, total | 1.0               |
| Selenium, total  | 0.010             |

Test methods utilized shall be sensitive enough to demonstrate compliance with the permit effluent limitations. Permit compliance/noncompliance determinations will be based on the effluent limitations contained in this permit with consideration given to the minimum analytical level (MAL) for the parameters specified above.

When an analysis of an effluent sample for any of the parameters listed above indicates no detectable levels above the MAL and the test method detection level is as sensitive as the specified MAL, a value of zero (0) shall be used for that measurement when determining calculations and reporting requirements for the self-reporting form. This applies to determinations of daily maximum concentration, calculations of loading and daily averages, and other reportable results.

When a reported value is zero (0) based on this MAL provision, the permittee shall submit the following statement with the self-reporting form either as a separate attachment to the form or as a statement in the comments section of the form.

"The reported value(s) of zero (0) for \_\_\_\_\_ [list parameter(s)] \_\_\_\_\_ on the self-reporting form for [monitoring period date range] \_\_\_\_\_ is based on the following conditions: 1) the analytical method used had a method detection level as sensitive as the MAL specified in the permit, and 2) the analytical results contained no detectable levels above the specified MAL."

When an analysis of an effluent sample for a parameter indicates no detectable levels and the test method detection level is not as sensitive as the MAL specified in the permit, or an MAL is not specified in the permit for that parameter, the level of detection achieved shall be used for that measurement when determining calculations and reporting requirements for the self-reporting form. A zero (0) may not be used.

2. Active Mining Area:
  - A. The term "active mining area" is defined as the areas, on and beneath land, used or disturbed in activity related to the extraction, removal or recovery of coal from its natural deposits. This term excludes coal preparation plants, coal preparation plant associated areas and post-mining areas.
  - B. All discharges from all retention ponds shall comply with the limitations for hazardous metals as regulated under the TCEQ, Permanent Rule, Title 30 Texas Administrative Code (TAC) Chapter 319, Subchapter B, 319.21 - 319.29, "Hazardous Metals".
  - C. All retention ponds shall be constructed prior to disturbing the natural soils in preparation of any mining activity. Upon initiation of any mining related activity in the watershed of any particular pond, the permittee shall notify the TCEQ, Industrial Permits Team, Wastewater Permitting Section (MC-148) and the Regional Office. A record of the design dimensions, construction information, the pond drainage area and a map, sketch or drawing showing the location of each pond shall be maintained at the site and shall be readily available for inspection by authorized representatives of the permitting authority.

- D. Discharges from the retention ponds shall be monitored in accordance with this permit from the time the natural soils are disturbed until reclamation of the disturbed soils is complete and until the performance bond (Phase Two) issued by the appropriate authority has been released. At least 10 days prior to any such action, the TCEQ, Industrial Permits Team, Wastewater Permitting Section (MC-148) and the Regional Office shall be notified in writing of the permittee's intent to close any retention pond or to discontinue monitoring.
- E. For discharges from "active mining area" ponds that do not contain mine pit water (or water that has contacted acid forming or toxic forming spoil) the following effluent limitations shall apply, and shall replace the effluent limitations listed on page 2 of this permit.

Any discharge caused by a precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event, or snowmelt of equivalent volume shall comply with the following limitations:

**EFFLUENT LIMITATIONS DURING PRECIPITATIONS:**

|   |                              |
|---|------------------------------|
| Pollutant or Pollutant Property                   | <u>Maximum for any 1 Day</u> |
| Settleable Solids*                                | 0.5 ml/l                     |
| pH - within the range of 6.0 to 9.0 at all times. |                              |

\* These limits do not apply when the discharge is caused by a precipitation event greater than the 10-year/24-hour precipitation event.

- F. The term "10-year, 24-hour rainfall event" shall mean a rainfall event with the probable recurrence interval of once in ten years as defined by the National Weather Service in Technical Paper No. 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.
3. Samples shall be collected at each outfall, when discharge occurs. The sampling location for each outfall is at the spillway of the retention pond associated with that outfall, and prior to mixing with any other waters. The outfalls, associated pond numbers, and discharge routes are as follows:

Permitted

Outfall & Facility

| <u>Pond ID</u> | <u>Pond ID</u>     | <u>Discharge Route</u>   |
|----------------|--------------------|--|
| 001            | SP-6               | From the spillway on the south side of the pond to Elm Creek;  |
| 002            | TBD*               | From the spillway on the southwest side of the pond to a ditch, thence to Elm Creek;                 |
| 003            | Int Pond 003; SP-2 | From the spillway on the southwest corner of the pond into a ditch, thence to Elm Creek;             |
| 004            | SP-1               | From the spillway on the southwest corner of the pond to a ditch, thence to Elm Creek;               |
| 005            | TBD*               | From the spillway on the east side of the pond to a ditch, thence to a culvert, thence to Elm Creek; |
| 006            | SP-7               | From the spillway on the southwest corner of the pond to a tributary, thence to Elm Creek;           |
| 007            | SP-5               | From the spillway on the southeast corner of the pond to Elm Creek;                                  |
| 008            | SP-3               | From the spillway on the southeast corner of the pond to Elm Creek;                                  |
| 009            | TBD*               | From the spillway on the west side of the pond to a ditch, thence to Elm Creek;                      |
| 010            | TBD*               | From the spillway on the west side of the pond to a ditch, thence to Elm Creek;                      |

| Permitted<br>Outfall &<br>Pond ID | Facility<br>Pond ID | Discharge Route  |
|-----------------------------------|---------------------|--|
| 011                               | TBD*                | From the spillway on the north side of the pond to a series of ditches, thence to Elm Creek; |
| 012                               | TBD*                | From the spillway on the south side of the pond to a ditch, thence to Elm Creek;             |
| 013                               | TBD*                | From the spillway on the south side of the pond to a ditch, thence to Elm Creek.             |

TBD\* means "to be determined." The Pond ID will be determined upon final design; revisions will be made pursuant Other Requirement No. 4 of this permit.

4. The permittee shall maintain a map at the mine site which shows the location of all ponds and discharge routes. The map and pond list shall be available to authorized TCEQ personnel. The permittee may revise the pond location map. Upon revision, the permittee shall submit revised maps to the TCEQ Wastewater Permitting Section (MC-148), and to the Region 16 Office.
5. Post Mining Areas:
  - A. The term "Post mining area" is defined as a reclamation area; or the underground workings of an underground coal mine after the extraction, removal, or recovery of coal from its natural deposit has ceased and prior to bond release.
  - B. The term "Reclamation area" is defined as the surface area of a coal mine which has been returned to required contour and on which revegetation (specifically, seeding or planting) work has commenced.
  - C. The term "Bond release" is defined as the time at which the appropriate regulatory authority returns a reclamation or performance bond based upon its determination that reclamation work (including, in the case of underground mines, mine sealing and abandonment procedures) has been satisfactorily completed. Phase Two completion is that point in the reclamation process where the property has been recontoured and replanted but prior to final bond release.
  - D. Discharges from post mining areas are not authorized under this permit. The permittee shall obtain a permit amendment prior to initiation of any discharge from post mining areas.
6. This permit does not authorize the discharge of storm water from construction activities. The permittee shall obtain all necessary permits, including coverage under the Texas Pollutant Discharge Elimination System (TPDES) Construction General Permit No. TXR150000, or most recent construction storm water general permit as applicable, prior to initiating any storm water discharge from construction at the site.
7. The permittee shall provide to the TCEQ Wastewater Permitting Section (MC-148) copies of all surface and groundwater quality monitoring results that it is required to send to the Railroad Commission of Texas (RCT) pursuant to its RCT mining and reclamation permit.
8. This permit does not authorize the disposal of domestic sewage. Domestic sewage shall be routed to a septic tank/drainfield system.
9. The permittee shall notify the TCEQ Region 16 office as each discharge point is developed.
10. The permittee shall notify the Executive Director of the TCEQ at least 90 days prior to conducting any activity of closure of any pit, pond, lagoon, or surface impoundment regulated by this permit.

**ATTACHMENT  
TABLE 1**

| Outfall No.                  | □C □G | Effluent Concentration (mg/l) |         |         |         |         |            |
|------------------------------|-------|-------------------------------|---------|---------|---------|---------|------------|
|                              |       | Samp. 1                       | Samp. 2 | Samp. 3 | Samp. 4 | Average |            |
| <b>Pollutants</b>            |       |                               |         |         |         |         |            |
| BOD (5-day)                  |       |                               |         |         |         |         |            |
| CBOD (5-day)                 |       |                               |         |         |         |         |            |
| Chemical Oxygen Demand       |       |                               |         |         |         |         |            |
| Total Organic Carbon         |       |                               |         |         |         |         |            |
| Ammonia Nitrogen             |       |                               |         |         |         |         |            |
| Total Suspended Solids       |       |                               |         |         |         |         |            |
| Nitrate Nitrogen             |       |                               |         |         |         |         |            |
| Total Organic Nitrogen       |       |                               |         |         |         |         |            |
| Total Phosphorus             |       |                               |         |         |         |         |            |
| Oil and Grease               |       |                               |         |         |         |         |            |
| Total Residual Chlorine      |       |                               |         |         |         |         |            |
| Total Dissolved Solids       |       |                               |         |         |         |         |            |
| Sulfate                      |       |                               |         |         |         |         |            |
| Chloride                     |       |                               |         |         |         |         |            |
| Fluoride                     |       |                               |         |         |         |         |            |
| Fecal Coliform               |       |                               |         |         |         |         |            |
| Temperature (°F)             |       |                               |         |         |         |         |            |
| pH (Standard Units; min/max) |       |                               |         |         |         |         |            |
|                              |       | Effluent Concentration (µg/l) |         |         |         |         | MAL (µg/l) |
| Total Aluminum               |       |                               |         |         |         |         | 30         |
| Total Antimony               |       |                               |         |         |         |         | 30         |
| Total Arsenic                |       |                               |         |         |         |         | 10         |
| Total Barium                 |       |                               |         |         |         |         | 10         |
| Total Beryllium              |       |                               |         |         |         |         | 5          |
| Total Cadmium                |       |                               |         |         |         |         | 1          |
| Total Chromium               |       |                               |         |         |         |         | 10         |
| Trivalent Chromium           |       |                               |         |         |         |         | N/A        |
| Hexavalent Chromium          |       |                               |         |         |         |         | 10         |
| Total Copper                 |       |                               |         |         |         |         | 10         |
| Cyanide                      |       |                               |         |         |         |         | 20         |
| Total Lead                   |       |                               |         |         |         |         | 5          |
| Total Mercury                |       |                               |         |         |         |         | 0.2        |
| Total Nickel                 |       |                               |         |         |         |         | 10         |
| Total Selenium               |       |                               |         |         |         |         | 10         |
| Total Silver                 |       |                               |         |         |         |         | 2.0        |
| Total Thallium               |       |                               |         |         |         |         | 10         |
| Total Zinc                   |       |                               |         |         |         |         | 5          |

11. Discharges from the retention ponds shall be monitored in accordance with the requirements of this permit from the time the overburden removal begins until reclamation of the disturbed soils is complete and the performance bond issued by the appropriate authority has been released. At least 10 days prior to such action, the permittee shall notify TCEQ Region 16 office and the TCEQ Wastewater Permitting Section (MC-148) in writing of its intent to close any retention pond or discontinue monitoring.
12. The Attached Effluent Data Table 1 shall be completed with the analytical results for each Outfall 001 through 013, when discharge occurs, and sent to the TCEQ, Wastewater Permitting Section (MC-148), within 90 days following the completion of the fourth discharge sampling event for any of the applicable outfalls. Sample collection and test methods shall be in accordance with the instructions for *Completing the Industrial Wastewater Permit Application Worksheet 2.0 - Pollutant Analyses Requirements*. Based on a technical review of the submitted analytical results, an amendment may be initiated by TCEQ staff to include additional effluent limitations and/or monitoring requirements.
13. Reporting requirements pursuant to 30 TAC Sections 319.1-319.11 and any additional effluent reporting requirements contained in the permit are suspended from the effective date of the permit until facility start-up or discharge, whichever comes first, from the facility areas and applicable outfalls described by this permit. The permittee shall provide written notice to the TCEQ Regional Office (MC R 16) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to facility area start-up or applicable outfall anticipated discharges, whichever occurs first and prior to completion of each additional phase on Notification of Completion Form 20007.
14. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 2304 of the Rio Grande Basin and any subsequent updating of the water quality model for Segment No. 2304 in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC Sections 305.62, as a result of such review.

## FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

For proposed Texas Pollutant Discharge Elimination System TPDES Permit No. WQ0003511000, EPA ID No. TX0109011 to discharge to water in the state.

Issuing Office: Texas Commission on Environmental Quality (TCEQ)  
P.O. Box 13087  
Austin, Texas 78711-3087

Applicant: Dos Republicas Coal Partnership  
5150 North Loop 1604 West  
San Antonio, Texas 78249

Prepared By: Melinda Luxemburg, P.E.  
Wastewater Permitting Section  
Water Quality Division  
(512) 239-4541

Date: July 28, 2010

Permit Action: Renewal; TPDES Permit No. WQ0003511000

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### I. EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed the permit be issued to expire on September 1, 2015 following the requirements of 30 TAC §305.71.

### II. APPLICANT ACTIVITY

The applicant will operate the Eagle Pass Mine, a sub-bituminous coal mine, and has applied for a renewal of TPDES Permit No. WQ0003511000, which authorizes the discharge of storm water and mine seepage from active mining areas on an intermittent and flow variable basis via Outfalls 001 through 013.

### III. DISCHARGE LOCATION

As described in the application, the site is located on the northeast side of State Highway 1588, three miles northeast of U.S. Highway 277, and approximately five miles northeast of the City of Eagle Pass, Maverick County, Texas. The effluent will be discharged to unnamed ditches; thence to Elm Creek; thence to the Rio Grande Below Amistad Reservoir in Segment No. 2304 of the Rio Grande Basin.

### IV. RECEIVING STREAM USES

~~The unclassified receiving waters have no significant aquatic life use for the unnamed ditches and high aquatic life use for Elm Creek. The designated uses for Segment No. 2304 are high aquatic life use, contact recreation, and public water supply.~~

### V. STREAM STANDARDS

The general criteria and numerical criteria that make up the stream standards are provided in 30 TAC §§307.1 - 307.10, effective April 30, 1997.

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

VI. DISCHARGE DESCRIPTION

A review of the wastewater discharge authorized under this permit could not be detailed since the facility has yet to discharge.

VII. PROPOSED EFFLUENT LIMITATIONS

The draft permit authorizes the discharge of storm water and mine seepage from active mining areas on an intermittent and flow variable basis via Outfalls 001 through 013.

Final effluent limitations are established in the draft permit as follows:

| <u>Outfall</u> | <u>Parameter</u>             | <u>Daily Average, mg/l</u> | <u>Daily Maximum, mg/l</u> |
|----------------|------------------------------|----------------------------|----------------------------|
| 001 -          | Flow (MGD)                   | (Report MGD)               | (Report MGD)               |
| 013            | Total Suspended Solids (TSS) | 35                         | 70                         |
|                | Iron, Total                  | 3.0                        | 6.0                        |
|                | Manganese, Total             | 2.0                        | 4.0                        |
|                | Selenium, Total              | N/A                        | 0.036                      |
|                | pH (standard units, su)      | (6.0 su minimum)           | (9.0 su maximum)           |

VIII. SUMMARY OF CHANGES FROM APPLICATION

The applicant requested a renewal of the existing permit without changes, and after review of the application the Executive Director has added the following more protective requirement.

1. Added the following *Other Requirement No. 14*, per EPA requirement:
  14. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 2304 of the Rio Grande Basin and any subsequent updating of the water quality model for Segment No. 2304 in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC Sections 305.62, as a result of such review.

IX. SUMMARY OF CHANGES FROM EXISTING PERMIT

The following additional changes have been made to the draft permit.

1. The Standard Permit Conditions and Other Requirements sections of the draft permit have been updated.
2. Revised current *Other Requirement No. 1*, which addresses reporting of violations of daily maximum effluent limitations, compliance with the permit limitations, and explains reporting of zero values for these parameters on the minimum analytical level (MAL), by the addition of MALs for total iron and total manganese.

## FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

3. Added the following *Other Requirement No. 13*, to help ensure required monitoring is performed:
  13. Reporting requirements pursuant to 30 TAC Sections 319.1-319.12 and any additional effluent reporting requirements contained in the permit are suspended from the effective date of the permit until facility start-up or discharge, whichever comes first, from the facility areas and applicable outfalls described by this permit. The permittee shall provide written notice to the TCEQ, Applications Review & Processing Team (MC 148), Wastewater Permitting Section and the Regional Office, forty-five (45) days prior to facility area start-up or applicable outfall anticipated discharges.

X. DRAFT PERMIT RATIONALE

The following section sets forth the statutory and regulatory requirements considered in preparing the draft permit. Also set forth are any calculations or other necessary explanations of the derivation of specific effluent limitations and conditions, including a citation to the applicable effluent limitation guidelines and water quality standards.

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A. REASON FOR PERMIT ISSUANCE

The applicant has applied to the TCEQ for a renewal of TPDES Permit No. WQ0003511000, which authorizes the discharge of storm water and mine seepage from active mining areas on an intermittent and flow variable basis via Outfalls 001 through 013.

B. WATER QUALITY SUMMARY

The effluent will be discharged to unnamed ditches; thence to Elm Creek; thence to the Rio Grande Below Amistad Reservoir in Segment No. 2304 of the Rio Grande Basin. The unclassified receiving waters have no significant aquatic life use for the unnamed ditches and high aquatic life use for Elm Creek. The designated uses for Segment No. 2304 are high aquatic life use, contact recreation, and public water supply. Effluent limitations and/or conditions established in the draft permit are in compliance with state water quality standards and the applicable water quality management plan. The effluent limits in the draft permit will maintain and protect the existing instream uses. Additional discussion of the water quality aspects of the draft permit will be found at Section X.D. of this fact sheet.

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; September 14, 1998, October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threaten species.

A waste Load Evaluation has been prepared for Segment No. 2304. Segment No. 2304 is currently listed on the State's inventory of impaired and threatened waters, (the 2008 Clean Water Act Section 303(d) list).

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

The 2008 Clean Water Act Section 303(d) listing is specifically for bacteria from the San Felipe Creek confluence to the Las Moras Creek confluence (AU 2304\_02), from the Laredo Water Treatment Plant intake to International Bridge #2 (AU 2304\_08), from International Bridge #2 to just below Chacon Creek confluence (AU 2304\_09) and from Chacon Creek confluence to the Arroyo Salado confluence (AU 2304\_10).

This permit does not authorize the discharge of treated domestic wastewater and this is a renewal application without any requested change in the volume or characteristics of the wastestreams. Additionally, the draft permit requires the permittee to complete testing requirements for effluent from each outfall following the initial discharge of the outfall and then submit the effluent analyses for review. Based on a technical review of the submitted analytical results, an amendment may be initiated by TCEQ staff to include additional effluent limitations and/or monitoring requirements. Therefore, the discharge authorized under this draft permit is not expected to contribute to elevated bacteria levels in the receiving segment.

C. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

1. GENERAL COMMENTS

Regulations promulgated in Title 40 of the Code of Federal Regulations (40 CFR) require technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, and/or on best professional judgment (BPJ) in the absence of guidelines.

The draft permit authorizes the discharge of storm water and mine seepage from active mining areas on an intermittent and flow variable basis via Outfalls 001 through 013.

The discharge of storm water and mine seepage from active mining areas, haul roads and ancillary disturbed areas via Outfalls 001-013 from the Eagle Pass Mine is subject to federal effluent limitation guidelines at 40 CFR Part 434, Subpart C – Acid or Ferruginous Mine Drainage. A new source determination was performed and the discharge of storm water and mine seepage is a new source as defined at 40 CFR § 122.2. Therefore new source performance standards (NSPS) are required for this discharge.

The wastewater system at the mine will consist of sedimentation ponds draining disturbed areas of the active coal mining areas and reclamation operation. The mine has not yet begun to discharge.

2. CALCULATIONS

Effluent limitations for total suspended solids, total iron, total manganese, and pH are continued from the existing TPDES permit based on 40 CFR § 434.35 (NSPS).

| Outfall | Parameter                    | Daily Average, mg/l | Daily Maximum, mg/l |
|---------|------------------------------|---------------------|---------------------|
| 001 -   | Flow (MGD)                   | (Report MGD)        | (Report MGD)        |
| 013     | Total Suspended Solids (TSS) | 35                  | 70                  |
|         | Iron, Total                  | 3.0                 | 6.0                 |
|         | Manganese, Total             | 2.0                 | 4.0                 |
|         | pH (standard units, su)      | (6.0 su minimum)    | (9.0 su maximum)    |

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

See *Appendix A* of this fact sheet for calculations and further discussion of technology-based effluent limitations proposed in the draft permit.

D. WATER QUALITY-BASED EFFLUENT LIMITATIONS/CONDITIONS

1. GENERAL COMMENTS

The Texas Surface Water Quality Standards found at 30 TAC Chapter 307 state that "surface waters will not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." The methodology outlined in the "Procedures to Implement the Texas Surface Water Quality Standards" is designed to insure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to insure that no source will be allowed to discharge any wastewater that: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation that threatens human health. Calculated water quality-based effluent limits can be found in *Appendix B* of this fact sheet.

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~~TPDES permits contain technology-based effluent limits reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other toxicity databases to determine the adequacy of technology-based permit limits and the need for additional water quality-based controls.~~

2. AQUATIC LIFE CRITERIA

a. SCREENING

Water quality-based effluent limitations are calculated from freshwater aquatic life criteria found in Table 1 of the Texas Surface Water Quality Standards (30 TAC Chapter 307). The discharges via Outfalls 001 – 013 and are to various unnamed ditches (i.e., intermittent streams).

There is no mixing zone or zone of initial dilution (ZID) for these discharges directly to intermittent streams; acute freshwater criteria apply at the point of discharge (i.e., end of pipe). Chronic freshwater criteria do not apply to discharges to intermittent streams where there is no perennial waterbody within three miles downstream from the point of discharge. The following critical effluent percentage is being used:

|                                   |      |
|-----------------------------------|------|
| Acute Effluent % (at edge of ZID) | 100% |
|-----------------------------------|------|

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Wasteload allocations (WLAs) are calculated using the above estimated effluent percentage, criteria outlined in the Texas Surface Water Quality Standards, and partitioning coefficients for metals (when appropriate and designated in the implementation procedures). The WLA is the end-of-pipe effluent concentration that can be discharged when after mixing in the receiving stream, the instream numerical criteria will not be exceeded.

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

From the WLA, a long term average (LTA) is calculated using a log normal probability distribution, a given coefficient of variation (0.6), and a 90th percentile confidence level. The LTA is the long-term average effluent concentration for which the WLA will never be exceeded using a selected percentile confidence level. The LTA (acute) is used to calculate a daily average and daily maximum effluent limitation for the protection of aquatic life using the same statistical considerations with the 99th percentile confidence level and a standard number of monthly effluent samples collected (12).

Assumptions used in deriving the effluent limitations include segment values for hardness, chlorides, pH and total suspended solids (TSS) according to the segment-specific values contained in the TCEQ guidance document, *Procedures to Implement the Texas Surface Water Quality Standards (IPs)*. The Segment No. 2304 values are 250 mg/l CaCO<sub>3</sub> for hardness, 119 mg/l Chlorides, 7.8 standard units for pH, and 5 mg/l for TSS. For additional details on the calculation of water quality-based effluent limitations, refer to the TCEQ guidance document.

TCEQ practice for determining significant potential is to compare the reported analytical data against percentages of the calculated daily average water quality-based effluent limitation. Permit limitations are required when analytical data reported in the application exceeds 85 percent of the ~~calculated daily average water quality-based effluent limitation. Monitoring and reporting is~~ required when analytical data reported in the application exceeds 70 percent of the calculated daily average water quality-based effluent limitation.

b. PERMIT ACTION

No analytical data is available for screening against calculated water quality - based effluent limitations since no discharge from Outfalls 001 – 013 have yet to occur.

Current *Other Requirement No. 12*, which requires effluent sampling and submittal of the analytical data for review, once discharge begins at any Outfall 001 through Outfall 013, has been continued in the draft permit. Based on a technical review of the submitted analytical results, an amendment may be initiated by TCEQ staff to include additional effluent limitations and/or monitoring requirements for aquatic life protection.

The current water quality-based daily maximum total selenium effluent of 0.036 mg/l is continued in the draft permit as follows:

| Outfall   | Parameter       | Daily Average, mg/l | Daily Maximum, mg/l |
|-----------|-----------------|---------------------|---------------------|
| 001 – 013 | Selenium, Total | N/A                 | 0.036               |

See *Appendix B* of this fact sheet for the calculated water quality-based effluent limits.

3. LIMITATIONS FOR PROTECTION OF DISSOLVED OXYGEN STANDARDS

a. DISCUSSION

In accordance with the Interoffice Memorandum dated April 8, 2010, from the Water Quality Assessment Team of the Water Quality Assessment Section (Modeling Memo), the proposed discharge via Outfalls 001 - 013 were evaluated.

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

Based on the description of the wastestreams and the low concentration of oxygen demanding constituents in the wastewater, no significant dissolved oxygen depletion is anticipated in the receiving waters as a result of these discharges.

b. PERMIT ACTION

None.

4. AQUATIC ORGANISM TOXICITY CRITERIA (7-DAY CHRONIC/48 - HOUR ACUTE)

a. SCREENING

The current TPDES permit does not include 7-day chronic or 48-hour acute biomonitoring requirements at any Outfall 001 - 013. The draft permit does not require 7-day chronic or 48-hour acute biomonitoring at any Outfall 001 - 013.

b. PERMIT ACTION

None.

5. AQUATIC ORGANISM TOXICITY CRITERIA (24-HOUR ACUTE)

a. SCREENING

The current TPDES permit does not require 24-hour acute biomonitoring at any Outfall 001 - 013. The draft permit does not require 24-hour acute biomonitoring at any Outfall 001 - 013.

b. PERMIT ACTION

None.

6. AQUATIC ORGANISM BIOACCUMULATION CRITERIA

a. SCREENING

The discharge point is located at a distance greater than three miles upstream of perennial waters. Human health screening is not applicable because of the distance between the discharge point and perennial waters that support fisheries.

b. PERMIT ACTION

None.

7. DRINKING WATER SUPPLY PROTECTION

a. SCREENING

Although water quality Segment No. 2304 is designated as a public water supply, the discharge point is located at a distance greater than three miles upstream of perennial waters.

## FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

Since the discharge point is located at a distance greater than three miles upstream of any perennial waters, human health screening is not applicable.

b. PERMIT ACTION

None.

XI. PRETREATMENT REQUIREMENTS

This facility is not defined as a publicly owned treatment works (POTW). Pretreatment requirements are not proposed in the draft permit.

XII. VARIANCE REQUESTS

No variance requests have been received.

XIII. PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for review and copying in the county where the facility is or will be located. This application will be in a public place throughout the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice informs the public about the application, and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

Once a draft permit is completed, it is sent, along with the Executive Director's preliminary decision, as contained in the technical summary or fact sheet, to the Chief Clerk. At that time, Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application. This notice sets a deadline for public comment.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding.

After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's Response to Comments and Final Decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If the Executive Director calls a public meeting or the Commission grants a contested case hearing as described above, the Commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the Commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application contact Melinda Luxemburg, P.E. at (512) 239-4541.

XIV. ADMINISTRATIVE RECORD

~~The following section is a list of the fact sheet citations to applicable statutory or regulatory provisions and appropriate supporting references.~~

A. PERMIT(S)

TPDES Permit No. WQ0003511000 issued November 16, 2006.

B. APPLICATION

TPDES wastewater permit application received on February 26, 2010, and additional information received March 4, 2010 and April 5, 2010.

C. 40 CFR CITATION(S)

40 CFR Part 434 Subpart C

D. LETTERS/MEMORANDA/RECORDS OF COMMUNICATION

TCEQ Interoffice Memorandum dated April 8, 2010, from Tom Y. Harrington, P.E. of the Water Quality Assessment Team, Water Quality Assessment Section to the Industrial Permits Team, Wastewater Permitting Section (Modeling Memo).

~~TCEQ Interoffice Memorandum dated April 2, 2010, from Brittany Lee of the Standards Implementation Team, Water Quality Assessment Section to the Industrial Permits Team, Wastewater Permitting Section (Standards Memo).~~

TCEQ Interoffice Memorandum dated April 6, 2010, from Nancy Vignali, of the Water Quality Assessment Team, Water Quality Assessment Section to the Industrial Permits Team, Wastewater Permits Section (TEXTOX Memo).

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

E. MISCELLANEOUS

Quality Criteria for Water (1986), EPA 440/5-86-001, 5/1/86.

The State of Texas Water Quality Inventory, 13th Edition, Publication No. SFR-50, Texas Commission on Environmental Quality, December 1996.

Texas Surface Water Quality Standards, 30 TAC §§307.1 - 307.10 (21 TexReg 9765, 4/40/97), and Appendix E, effective February 27, 2002.

*Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fourth Edition, EPA/600/4-90/027F.*

*Procedures to Implement the Texas Surface Water Quality Standards, Texas Commission on Environmental Quality, January 2003.*

*Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.*

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FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

APPENDIX A

CALCULATED TECHNOLOGY BASED EFFLUENT LIMITATIONS

The following technology-based effluent limitations are proposed in the draft permit in accordance with 40 Code of Federal Regulations (CFR) Part 434 - Federal Effluent Guidelines for the Coal Mining Point Source Category, each point source discharge from the facility will be monitored and reported as a separate outfall for compliance with the effluent limitations. The current TPDES permit and this renewal draft permit do not authorize the discharge of wastewater from post-mining areas (applicability under 40 CFR §434 Subpart E).

40 CFR §434, Subpart C, Acid or Ferruginous Mine Drainage Subcategory

40 CFR §434.35 New Source Performance Standards (NSPS):

The following technology-based effluent limitations are applicable:

| Outfall | Parameter                    | Daily Average, mg/l | Daily Maximum, mg/l |
|---------|------------------------------|---------------------|---------------------|
| 001 -   | Flow (MGD)                   | (Report MGD)        | (Report MGD)        |
| 013     | Total Suspended Solids (TSS) | 35                  | 70                  |
|         | Iron, Total                  | 3.0                 | 6.0                 |
|         | Manganese, Total             | 2.0                 | 4.0                 |
|         | pH (standard units, su)      | (6.0 su minimum)    | (9.0 su maximum)    |

Technology-based effluent limitations for total suspended solids, total iron, total magnesium and pH at Outfalls 001-013 are continued from the existing permit based upon 40 CFR 434.35 (NSPS).

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

**APPENDIX B**  
**CALCULATED WATER QUALITY-BASED EFFLUENT LIMITS**  
**TEXTOX MENU #1 - BAY OR WIDE TIDAL RIVER**

The water quality-based effluent limitations demonstrated below are calculated using:

- Table 1, 2000 Texas Surface Water Quality Standards (30 TAC 307) for Freshwater Aquatic Life
- "Procedures to Implement the TSWQS," Texas Commission on Environmental Quality, January 2003.

**PERMITTEE INFORMATION:**

|                  |                                 |
|------------------|---------------------------------|
| Permittee Name:  | Dos Republicas Coal Partnership |
| TPDES Permit No. | WQ0003511000                    |
| Outfall No:      | 001                             |
| Prepared By:     | Melinda Luxemburg, P.E.         |
| Date:            | August 4, 2010                  |

**DISCHARGE INFORMATION:**

|   |                          |
|---|--------------------------|
| Immediate Receiving Waterbody:                      | Unnamed ditches in Texas |
| Segment No:   | 2304                     |
| TSS:  | 5                        |
| pH:   | 7.8                      |
| Hardness:   | 250                      |
| Chloride:   | 119                      |
| Effluent Flow for Aquatic Life (MGD)                | < 10 MGD                 |
| Critical Low Flow [7Q2]:                            | 0.0                      |
| Acute Effluent % for Aquatic Life (% eff. for ZID): | 100                      |

**CALCULATE TOTAL/DISSOLVED RATIO:**

| Stream/River Metal | Intercept (b) | Slope (m) | Partition Coefficient (K <sub>po</sub> ) | Dissolved Fraction (Cd/Ct) |         | Water Effects Ratio (WER) |         |
|--------------------|---------------|-----------|--|----------------------------|---------|---------------------------|---------|
| Aluminum           | N/A           | N/A       | N/A                                      | 1.00                       | Assumed | 1                         | Assumed |
| Arsenic            | 5.68          | -0.73     | 147826.365                               | 0.58                       |         | 1                         | Assumed |
| Cadmium            | 6.60          | -1.13     | 645897.934                               | 0.24                       |         | 1                         | Assumed |
| Chromium (Total)   | 6.52          | -0.93     | 741238.376                               | 0.21                       |         | 1                         | Assumed |
| Chromium (+3)      | 6.52          | -0.93     | 741238.376                               | 0.21                       |         | 1                         | Assumed |
| Chromium (+6)      | N/A           | N/A       | N/A                                      | 1.00                       | Assumed | 1                         | Assumed |
| Copper             | 6.02          | -0.74     | 318245.445                               | 0.39                       |         | 1                         | Assumed |
| Lead               | 6.45          | -0.80     | 777721.306                               | 0.20                       |         | 1                         | Assumed |
| Mercury            | N/A           | N/A       | N/A                                      | 1.00                       | Assumed | 1                         | Assumed |
| Nickel             | 5.69          | -0.57     | 195698.320                               | 0.51                       |         | 1                         | Assumed |
| Selenium           | N/A           | N/A       | N/A                                      | 1.00                       | Assumed | 1                         | Assumed |
| Silver             | 6.38          | -1.03     | 457152.286                               | 0.30                       |         | 1                         | Assumed |
| Zinc               | 6.10          | -0.70     | 408057.155                               | 0.33                       |         | 1                         | Assumed |

## FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

## AQUATIC LIFE-CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITS

| Parameter                        | Acute Standard (ug/l) | WLAa     | LTAa    | Daily Avg. (ug/l) | Daily Max. (ug/l) |
|----------------------------------|-----------------------|----------|---------|-------------------|-------------------|
| Aldrin                           | 3.0                   | 3.000    | 1.719   | 2.527             | 5.346             |
| Aluminum <sup>d</sup>            | 991                   | 991.000  | 567.843 | 834.729           | 1765.992          |
| Arsenic <sup>d</sup>             | 360                   | 626.087  | 358.748 | 527.360           | 1115.707          |
| Cadmium <sup>d</sup>             | 92.152                | 389.755  | 223.330 | 328.294           | 694.555           |
| Carbaryl                         | 2.0                   | 2.000    | 1.146   | 1.685             | 3.564             |
| Chlordane                        | 2.4                   | 2.400    | 1.375   | 2.022             | 4.277             |
| Chlorpyrifos                     | 0.083                 | 0.083    | 0.048   | 0.070             | 0.148             |
| Chromium (+3) <sup>d</sup>       | 1162.19               | 5469.50  | 3134.02 | 4607.01           | 9746.81           |
| Chromium (+6) <sup>d</sup>       | 15.7                  | 15.700   | 8.996   | 13.224            | 27.978            |
| Copper <sup>d</sup>              | 43.689                | 113.208  | 64.868  | 95.357            | 201.741           |
| Cyanide (free)                   | 45.78                 | 45.7800  | 26.23   | 38.56             | 81.58             |
| 4,4'-DDT                         | 1.1                   | 1.100    | 0.630   | 0.927             | 1.960             |
| Dementon                         | N/A                   | 0.000    | N/A     | N/A               | N/A               |
| Dicofol                          | 59.3                  | 59.300   | 33.979  | 49.949            | 105.674           |
| Dieldrin                         | 2.5                   | 2.500    | 1.433   | 2.106             | 4.455             |
| Diuron                           | 210                   | 210.000  | 120.330 | 176.885           | 374.226           |
| Endosulfan I (alpha)             | 0.22                  | 0.220    | 0.126   | 0.185             | 0.392             |
| Endosulfan II (beta)             | 0.22                  | 0.220    | 0.126   | 0.185             | 0.392             |
| Endosulfan sulfate               | 0.22                  | 0.220    | 0.126   | 0.185             | 0.392             |
| Endrin                           | 0.18                  | 0.180    | 0.103   | 0.152             | 0.321             |
| Guthion                          | N/A                   | 0.000    | N/A     | N/A               | N/A               |
| Heptachlor                       | 0.52                  | 0.520    | 0.298   | 0.438             | 0.927             |
| Hexachlorocyclohexane (Lindane)  | 2.0                   | 2.000    | 1.146   | 1.685             | 3.564             |
| Lead <sup>d</sup>                | 233.029               | 1139.186 | 652.753 | 959.548           | 2030.063          |
| Malathion                        | N/A                   | 0.000    | N/A     | N/A               | N/A               |
| Mercury                          | 2.4                   | 2.400    | 1.375   | 2.022             | 4.277             |
| Methoxychlor                     | N/A                   | N/A      | N/A     | N/A               | N/A               |
| Mirex                            | N/A                   | N/A      | N/A     | N/A               | N/A               |
| Nickel <sup>d</sup>              | 3072.829              | 6079.57  | 3483.59 | 5120.88           | 10833.97          |
| Parathion (ethyl)                | 0.065                 | 0.065    | 0.037   | 0.055             | 0.116             |
| Pentachlorophenol                | 20.267                | 20.267   | 11.613  | 17.071            | 36.117            |
| Phenanthrene                     | 30                    | 30.000   | 17.190  | 25.269            | 53.461            |
| Polychlorinated Biphenyls (PCBs) | 2.0                   | 2.000    | 1.146   | 1.685             | 3.564             |
| Selenium                         | 20                    | 20.000   | 11.460  | 16.846            | 35.641            |
| Silver, (free ion)               | 0.8                   | 25.459   | 14.588  | 21.445            | 45.369            |
| Toxaphene                        | 0.78                  | 0.780    | 0.447   | 0.657             | 1.390             |
| Tributyltin (TBT)                | 0.13                  | 0.130    | 0.074   | 0.110             | 0.232             |
| 2,4,5 Trichlorophenol            | 136                   | 136.000  | 77.928  | 114.554           | 242.356           |
| Zinc <sup>d</sup>                | 248.760               | 756.301  | 433.361 | 637.040           | 1347.751          |

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

CALCULATE 70% AND 85% OF DAILY AVERAGE EFFLUENT LIMITATIONS

| Parameter                        | 70%     | 85%     |
|----------------------------------|---------|---------|
| <i>Aquatic Life</i>              |         |         |
| Aldrin                           | 1.769   | 2.148   |
| Aluminum                         | 584.310 | 709.520 |
| Arsenic                          | 369.152 | 448.256 |
| Cadmium                          | 229.806 | 279.050 |
| Carbaryl                         | 1.179   | 1.432   |
| Chlordane                        | 1.415   | 1.718   |
| Chlorpyrifos                     | 0.049   | 0.059   |
| Chromium (+3)                    | 3224.91 | 3915.96 |
| Chromium (+6)                    | 9.257   | 11.241  |
| Copper                           | 66.750  | 81.053  |
| Cyanide (free)                   | 26.993  | 32.777  |
| 4,4'-DDT                         | 0.649   | 0.788   |
| Dementon                         | N/A     | N/A     |
| Dicofol                          | 34.964  | 42.457  |
| Dieldrin                         | 1.474   | 1.790   |
| Diuron                           | 123.820 | 150.352 |
| Endosulfan I (alpha)             | 0.130   | 0.158   |
| Endosulfan II (beta)             | 0.130   | 0.158   |
| Endosulfan sulfate               | 0.130   | 0.158   |
| Endrin                           | 0.106   | 0.129   |
| Guthion                          | N/A     | N/A     |
| Heptachlor                       | 0.307   | 0.372   |
| Hexachlorocyclohexane (Lindane)  | 1.179   | 1.432   |
| Lead                             | 671.683 | 815.615 |
| Malathion                        | N/A     | N/A     |
| Mercury                          | 1.415   | 1.718   |
| Methoxychlor                     | N/A     | N/A     |
| Mirex                            | N/A     | N/A     |
| Nickel                           | 3584.62 | 4352.75 |
| Parathion (ethyl)                | 0.038   | 0.047   |
| Pentachlorophenol                | 11.950  | 14.511  |
| Phenanthrene                     | 17.689  | 21.479  |
| Polychlorinated Biphenyls (PCBs) | 1.179   | 1.432   |
| Selenium                         | 11.792  | 14.319  |
| Silver, (free ion)               | 15.011  | 18.228  |
| Toxaphene                        | 0.460   | 0.558   |
| Tributyltin (TBT)                | 0.077   | 0.093   |
| 2,4,5 Trichlorophenol            | 80.188  | 97.371  |
| Zinc                             | 445.928 | 541.484 |

## Compliance History Report

|   |   |                      |                   |
|---|---|----------------------|-------------------|
| Customer/Respondent/Owner-Operator:   | CN600787782 Dos Republicas Coal Partnership   | Classification: HIGH | Rating: 0.00      |
| Regulated Entity:   | RN101529493 DOS REPUBLICAS COAL PARTNERSHIP   | Classification: HIGH | Site Rating: 0.00 |
| ID Number(s):   | WASTEWATER PERMIT   |                      | WQ0003511000      |
|   | WASTEWATER PERMIT   |                      | TPDES0109011      |
|   | WASTEWATER PERMIT   |                      | TX0109011         |
| Location:   |   |                      |                   |
| TCEQ Region:  | REGION 16 - LAREDO  |                      |                   |
| Date Compliance History Prepared:   | June 03, 2010   |                      |                   |
| Agency Decision Requiring Compliance History:   | Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit. |                      |                   |
| Compliance Period:  | February 26, 2005 to June 03, 2010  |                      |                   |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History |   |                      |                   |
| Name:   | Melinda Luxemburg   | Phone:               | 239 - 4541        |

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

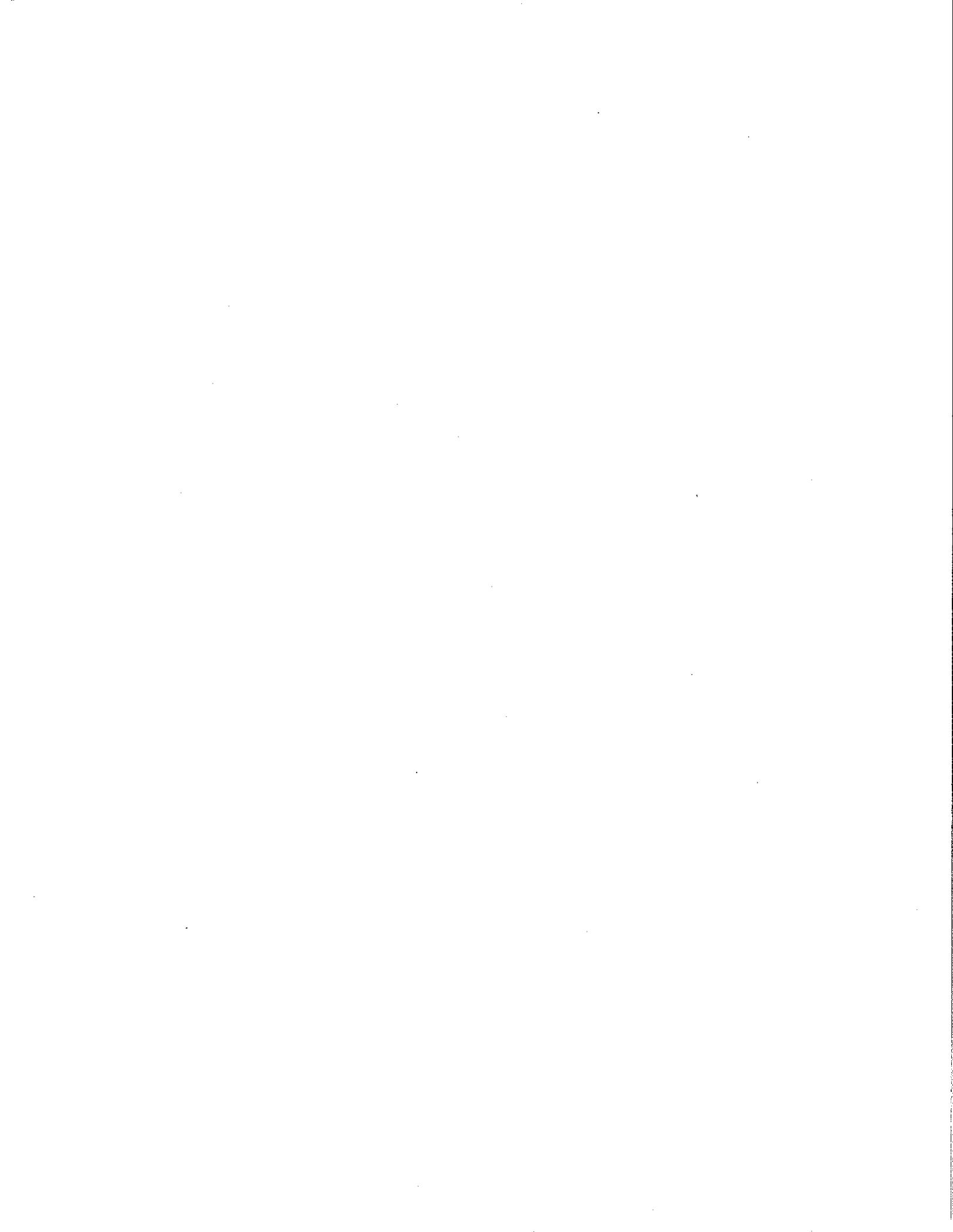
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

|    |            |          |
|----|------------|----------|
| 1  | 03/22/2005 | (426598) |
| 2  | 04/19/2005 | (426599) |
| 3  | 05/18/2005 | (426601) |
| 4  | 06/17/2005 | (426600) |
| 5  | 07/22/2005 | (446843) |
| 6  | 08/18/2005 | (446844) |
| 7  | 09/19/2005 | (446845) |
| 8  | 10/24/2005 | (490664) |
| 9  | 11/17/2005 | (490665) |
| 10 | 12/21/2005 | (490666) |
| 11 | 01/24/2006 | (490667) |
| 12 | 02/21/2006 | (490661) |
| 13 | 03/24/2006 | (490662) |
| 14 | 04/17/2006 | (490663) |
| 15 | 05/15/2006 | (505428) |
| 16 | 06/21/2006 | (505429) |
| 17 | 07/27/2006 | (527713) |
| 18 | 08/31/2006 | (527714) |



N/A



## Compliance History

|   |   |                      |                           |
|---|---|----------------------|---------------------------|
| Customer/Respondent/Owner-Operator:   | CN600787782 Dos Republicas Coal Partnership   | Classification: HIGH | Rating: 0.00              |
| Regulated Entity:   | RN101529493 DOS REPUBLICAS COAL PARTNERSHIP   | Classification: HIGH | Site Rating: 0.00         |
| ID Number(s):   | WASTEWATER PERMIT<br>WASTEWATER EPA ID  |                      | WQ0003511000<br>TX0109011 |
| Location:   |   |                      |                           |
| TCEQ Region:  | REGION 16 - LAREDO  |                      |                           |
| Date Compliance History Prepared:   | October 04, 2011  |                      |                           |
| Agency Decision Requiring Compliance History:   | Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit. |                      |                           |
| Compliance Period:  | February 26, 2005 to October 04, 2011   |                      |                           |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History |   |                      |                           |
| Name:   | Melinda Luxemburg   | Phone:               | 239 - 4541                |

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator?  

N/A
4. If Yes, who was/were the prior owner(s)/operator(s)?  

N/A
5. When did the change(s) in owner or operator occur?  

N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 

|    |            |          |
|----|------------|----------|
| 1  | 03/22/2005 | (426598) |
| 2  | 04/19/2005 | (426599) |
| 3  | 06/17/2005 | (426600) |
| 4  | 05/18/2005 | (426601) |
| 5  | 07/22/2005 | (446843) |
| 6  | 08/18/2005 | (446844) |
| 7  | 09/19/2005 | (446845) |
| 8  | 02/21/2006 | (490661) |
| 9  | 03/24/2006 | (490662) |
| 10 | 04/17/2006 | (490663) |
| 11 | 10/24/2005 | (490664) |
| 12 | 11/17/2005 | (490665) |
| 13 | 12/21/2005 | (490666) |
| 14 | 01/24/2006 | (490667) |
| 15 | 05/15/2006 | (505428) |
| 16 | 06/21/2006 | (505429) |

17 07/27/2006 (527713)  
18 08/31/2006 (527714)  
19 09/29/2006 (527715)  
20 02/23/2007 (551367)  
21 10/13/2006 (551368)  
22 11/20/2006 (551369)  
23 12/27/2006 (551370)  
24 01/18/2007 (551371)  
25 03/08/2007 (588172)  
26 04/27/2007 (588173)  
27 05/11/2007 (588174)  
28 06/22/2007 (588175)  
29 07/19/2007 (588176)  
30 08/27/2007 (605360)  
31 09/21/2007 (605361)  
32 10/23/2007 (605362)  
33 11/20/2007 (629281)  
34 01/02/2008 (629282)  
35 01/02/2008 (629283)  
36 03/05/2008 (676674)  
37 03/05/2008 (676675)  
38 04/25/2008 (676676)  
39 05/22/2008 (695222)  
40 06/09/2008 (695223)  
41 08/11/2008 (716741)  
42 08/11/2008 (716742)  
43 09/02/2008 (716743)  
44 10/03/2008 (716744)  
45 11/11/2008 (732176)  
46 12/02/2008 (732177)  
47 01/08/2009 (732178)  
48 02/09/2009 (755511)  
49 03/17/2009 (755512)  
50 04/15/2009 (755513)  
51 05/07/2009 (772569)  
52 06/02/2009 (772570)  
53 02/12/2010 (817792)  
54 08/05/2009 (817793)  
55 08/19/2009 (817794)  
56 09/18/2009 (817795)  
57 10/13/2009 (817796)  
58 11/04/2009 (817797)  
59 12/07/2009 (817798)  
60 01/18/2010 (817799)  
61 03/10/2010 (835473)  
62 04/19/2010 (835474)  
63 05/14/2010 (835475)  
64 06/16/2010 (847678)

65 07/19/2010 (862079)  
66 08/03/2010 (868667)  
67 09/08/2010 (875557)  
68 10/18/2010 (883098)  
69 11/18/2010 (889513)  
70 12/17/2010 (897876)  
71 01/18/2011 (903781)  
72 02/19/2011 (910669)  
73 03/15/2011 (917923)  
74 04/18/2011 (929763)  
75 05/09/2011 (939625)  
76 06/01/2011 (947039)  
77 07/05/2011 (954300)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

