IN THE FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO

EASTERN NAVAJO DINÉ AGAINST URANIUM MINING,
its individual members, LARRY KING, and CHRISTINE SMITH

Plaintiffs,

v.

Case No. D-101-CV-2011-02270

DAVID MARTIN,
SECRETARY OF THE ENVIRONMENT
and the NEW MEXICO ENVIRONMENT DEPARTMENT

Defendants,

HYDRO RESOURCES, INC.

Defendant-Intorvenors.

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to New Mexico Rule of Civil Procedure 1-056, Plaintiffs Eastern Navajo Diné Against Uranium Mining ("ENDAUM"), its individual members, and representative members Larry J. King, and Christine Smith ("Plaintiffs") respectfully submit the following Motion for Summary Judgment on Claim I of their Complaint (request for a declaratory judgment that Defendant the New Mexico Environment Department ("NMED") has no authority to accept HRI's DP-558 Application as a discharge permit renewal) and part of Claim II of their Complaint (requesting declaratory judgment that Defendants Martin and NMED have no authority to allow HRI to conduct discharges at Section 8 until they have made a determination to grant HRI's discharge permit application). Pursuant to New Mexico Rule of Civil Procedure 1-007.1(C)(4) and Local Rule, LR1-306(A) this Motion is presumed opposed.

In support of their Motion, Plaintiffs state the following:

1. The fundamental dispute in this case is whether Defendant-Intervenor Hydro Resources, Inc. ("HRI") possesses a valid and enforceable discharge permit under the New Mexico Water Quality Act regulations.

2. A valid and enforceable discharge permit would allow HRI to discharge fluids, in this case chemicals that react with uranium within an underground aquifer, into groundwater. 20.6.2.3104 NMAC.

3. The foundation of that dispute rests on whether the Defendants have the authority to consider HRI's 1996 permit renewal application as still pending after 15 years of inaction and whether Defendants have the authority to allow HRI to conduct discharges at Section 8 prior to conducting an evaluation of and public hearing on HRI's April 1, 2011 permit application supplement.

4. After Plaintiffs filed their Motion for Preliminary Injunction and supporting memorandum of law, Defendants filed an Answer to Plaintiffs' Complaint and Response to Plaintiffs' Motion for Preliminary Injunction, which included an affidavit by acting Groundwater Bureau Chief Gerard Schoeppner and other exhibits.

5. During this time period, HRI intervened as a defendant and submitted an Answer to Plaintiffs' Complaint.

6. Based on the pleadings and affidavits, there is no disputed issue of material fact about the events leading to the current dispute over the validity of HRI's discharge permit, DP-558.

7. Accordingly, only the legal issue of whether Defendants properly interpreted the Water Quality Act regulations in considering HRI's discharge permit renewal application remains to be determined.

8. Based on the governing rules of regulatory interpretation, the Defendants improperly interpreted the Water Quality Act regulations and Plaintiffs are entitled to a judgment as a matter of law.

WHEREFORE, Plaintiffs respectfully request:

1. That the Court enter a judgment in favor of Plaintiffs on Claim I of their Complaint, declaring that NMED has no authority to consider HRI's DP-558 permit application as a discharge permit renewal; and

2. That the Court enter a partial judgment in favor of Plaintiffs on Claim II of their Complaint, declaring that NMED has no authority to allow HRI to conduct discharging activities on the Church Rock Section 8 mine site unless and until it makes a final determination to grant HRI's DP-558 permit application.

Respectfully submitted this 1st day of September, 2011.

Eric Jantz
Douglas Meiklejohn
Bruce Frederick
Jonathan Block
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, New Mexico 87505
Telephone: 505-989-9022
Facsimile: 505-989-3769
ejantz@nmelc.org

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of September, 2011, I have delivered a copy of the foregoing pleading in the above-captioned case via email and U.S. mail, fist class, to the following:

Charles de Saillen
Assistant General Counsel
Office of General Counsel
New Mexico Environment Department
Harold Runnels Bldg., Rm. N4100
1190 St. Francis Drive
Santa Fe, NM 87505

Gary King
New Mexico Attorney General
408 Galisteo Street
Villagra Building
Santa Fe, NM 87501

Michael R. Comeau
Jon J. Indall
Comeau, Maldegen, Templeman & Indall, LLC
141 East Palace Ave., 2nd Floor
PO Box 669
Santa Fe, NM 87504-0669

By:

IN THE FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
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EASTERN NAVAJO DINÉ AGAINST URANIUM MINING, its individual members, LARRY KING, and CHRISTINE SMITH

Plaintiffs,

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DAVID MARTIN,
SECRETARY OF THE ENVIRONMENT
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Defendants,

HYDRO RESOURCES, INC.

Defendant- Intervenors.

PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Pursuant to New Mexico Rule of Civil Procedure 1-056, Plaintiffs Eastern Navajo Diné Against Uranium Mining ("ENDAUM"), its individual members, and representative members Larry J. King, and Christine Smith ("Plaintiffs") respectfully submit the following Memorandum in Support of their Motion for Summary Judgment on Claim I of their Complaint (request for a declaratory judgment that Defendant New Mexico Environment Department ("NMED") has no authority to accept Defendant-Intervenor Hydro Resources, Inc.'s ("HRI's") DP-558 Application as a discharge permit renewal) and part of Claim II of their Complaint (requesting declaratory judgment that Defendants Martin and NMED have no authority to allow HRI to conduct discharges at Section 8 until they have made a determination to grant HRI's discharge permit application).

I. BACKGROUND

The fundamental dispute in this case is whether Defendant-Intervenor Hydro Resources, Inc. possesses a valid and enforceable discharge permit under the New Mexico Water Quality Act regulations. A valid and enforceable discharge permit would allow HRI to discharge fluids, in this case chemicals that react with uranium in an underground aquifer, into groundwater. 20.6.2.3104 NMAC. The foundation of that dispute rests on whether the Defendants have the authority to consider HRI's 1996 permit renewal application as still pending after 15 years of inaction and whether Defendants have the authority to allow HRI to conduct discharges at a mine site in Church Rock, New Mexico, called Section 8.

Ordinarily, a discharge permit is issued for a period of not more than five years. 20.6.2.3109.H.4 NMAC. During this period, the permittee may conduct discharges in conformity with the terms of the discharge permit. 20.6.2.1220 NMAC. In the case of new discharges, the term of the permit commences on the date the discharge begins. 20.6.2.3109.H.4 NMAC. In "no event", however, may a discharge permit term be longer than seven years from the date of issuance. *Id.*

A permittee may renew its discharge permit in order to continue to conduct discharging activities. 20.6.2.3106.F NMAC. A discharge permit renewal is timely if the permit holder submits a renewal application within 120 days of its permit expiring. *Id.* Thus, when a permittee is conducting discharges, it may submit a renewal for a discharge permit 120 days before its five year permit term expires, and continue discharging activities beyond the five year permit term while NMED evaluates its renewal. However, "in no event" may the permittee discharge fluids into groundwater beyond a term of seven years from the date the permit was issued. 20.6.2.3109.H.4 NMAC.

If a permittee has not conducted any discharges during its permit term, it may still renew its permit under § 3106.F. However, as with permittees who are actively discharging pursuant to a discharge permit, under no circumstances can the term of a discharge permit be extended beyond seven years after the date the permit was issued. 20.6.2.3109.H.4 NMAC.

II. UNDISPUTED MATERIAL FACTS

In this case, because the factual record spans over 20 years and some documents have apparently been lost or misplaced, some aspects of the permit record are unclear. *See, generally*, Memorandum in Support of Preliminary Injunction; Response. However, the material facts giving rise to the legal controversy are clear and undisputed:

1. NMED's predecessor agency originally issued HRI a discharge permit, which it denominated DP-558, to conduct discharges associated with *in situ* leach ("ISL") uranium mining at its Church Rock Section 8 site on November 2, 1989. Affidavit of Gerard Schoeppner ("Schoeppner Affidavit") at ¶ 8, attached as Exhibit 1 to Defendants' Response in Opposition to Motion for Preliminary Injunction ("Response"); Defendants' Answer at ¶ 19; HRI Answer at ¶¶ 16, 19, 33.

2. HRI filed a renewal application with NMED on July 2, 1996, which NMED deemed timely. Schoeppner Affidavit at ¶ 8; Response at 5; HRI Answer at ¶¶ 16, 34.

3. HRI has not conducted any discharging activity at Section 8 and is not currently conducting any discharging activities there. Schoeppner Affidavit at ¶ 6.

4. Between July 2, 1996 and March 31, 2011, HRI did not submit any additional discharge permit renewal applications for DP-558. Response at 5; Defendants' Answer at ¶¶ 34, 35; HRI Answer at ¶ 35.

5. On April 1, 2011, HRI submitted a revised and updated permit application to NMED. Response at 5; Defendants' Answer at ¶ 12; Exhibit 1 to Plaintiffs' Memorandum in Support of Motion for Preliminary Injunction, containing a copy of HRI's DP-558 Supplemental Materials Application cover sheet; HRI's Discharge Permit Application (Supplement to 7/2/96 Application), attached hereto as Exhibit 1.

Because these material factual issues are undisputed and are the only facts material to a determination, as a matter of law, whether Defendants properly determined that HRI has an effective and enforceable discharge permit, summary judgment is appropriate. As a matter of law, Plaintiffs are entitled to summary judgment on their Claim I and summary judgment on their declaratory judgment portion of their Claim II.

III. SUMMARY JUDGMENT STANDARD

The purpose of summary judgment is to "smoke out" whether there is any genuine dispute over facts and, if not, "to conserve judicial time and energy by avoiding an unnecessary trial and by providing a speedy and efficient summary disposition." *Bland v. Norfolk & Southern Railroad Co.*, 406 F.2d 863, 866 (4th Cir., 1969); *see also, Bros, Inc. v. W.E. Grace Mnfg. Co.*, 261 F.2d 428, 432 (5th Cir., 1958) ("Summary judgment is a marvelous instrument in expediting the administration of justice."); *Aktiengesellschaft Der Harlander Buawollenspinnerie und Swirn-Fabrik v. Lawrence Walker Cotton Co.*, 60 N.M. 154, 162, 288 P.2d 691, 696 (N.M. 1955). Summary judgment shall be awarded to the movant if the "pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." SCRA 1986, 1-056(C). A genuine factual issue exists when there is a dispute as to facts that warrant submission of the dispute to a finder of fact.

General Electric Credit Corp. v. Tidenberg, 78 N.M. 59, 61, 428 P.2d 33, 35 (N.M. 1967) (citations omitted). The legal effect of undisputed facts is appropriate for summary judgment by the court. *Id.* A fact is material if it will affect the outcome of the case. *Parker v. E.I DuPont de Nemours Co., Inc.*, 121 N.M. 120, 124, 909 P.2d 1, 5 (Ct. App. 1995); *Garcia v. City of Albuquerque*, 232 F.3d 760, 768 (10th Cir. 2010).

IV. ARGUMENT

A. As a Matter of Law, Defendants Improperly Determined that HRI Possesses an Effective and Enforceable Discharge Permit.

The dispositive issue of whether HRI's discharge permit, DP-558, is valid, rests entirely on the legal interpretation of the Water Quality Act regulations. In this case, the canons of regulatory construction dictate that Defendants' interpretation of the regulations governing discharge permit renewals is erroneous.

Defendants' interpretation of the regulations governing discharge permit renewals is erroneous as a matter of law. Agency regulations, like statutes, are subject to rules of interpretation. § 12-2A-1; *Albuquerque Bernalillo Co. Water Util. Auth v. N.M. Public Regulation Comm'n*, 148 N.M. 21, 39, 229 P.3d 494, 512 (N.M. 2010), *citing Johnson v. N.M. Oil & Conservation Comm'n*, 127 N.M. 120, 978 P.2d 327. When interpreting agency regulations, courts use the rules of statutory interpretation. *Id.*; *Alliance Health of Santa Teresa, Inc. v. Nat'l Presto Indus., 143 N.M. 133, 139, 173 P.3d 55, 61* (Ct. App. 2007) (" In interpreting sections of the Administrative Code, we apply the same rules as used in statutory interpretation."). Regulatory interpretation, like statutory interpretation, is based on the rule's plain language. Thus, if the plain language of the regulation is clear, the Court simply applies the regulation as written. Interpretations that lead to absurd or unreasonable results or that renders any of the regulatory language extraneous or mere surplusage should be avoided. *State*

v. Juan, 148 N.M. 747, 759, 242 P.3d 314, 326 (N.M. 2010), *quoting State v. Javier M.*, 131 N.M. 1, 33 P.3d 1; § 12-2A-18(A)(3); *Espinosa v. Rowell Tower, Inc.*, 121 N.M. 306, 312, 910 P.2d 940, 946 (Ct. App. 1995), *citing, Dona Ana Sav. & Loan Ass'n v. Dofflemeyer*, 115 N.M. 590, 592-93, 855 P.2d 1054, 1056-57 (1993). The court should consider the entire regulatory and statutory scheme and interpret each part harmoniously with the whole to effectuate the statute's purpose. *Pueblo of Picuris v. N.M. Energy, Minerals and Nat. Res. Dept.*, 131 N.M. 166, 169, 33 P.3d 916,919 (Ct. App. 2001); §§ 12-2A-18(A)(1), (2).

In this case, the Defendants' interpretation of its regulations governing permit renewals violates the fundamental rules of regulatory construction. The Defendants argue that the Water Quality Act regulations provide for renewal of discharge permits without interruption in discharging activities or legal validity. Response at 12. In support of their argument, Defendants cite to 10.6.2.3106.F of the New Mexico Administrative Code which provides that renewal applications that NMED receives within 120 days of its expiration are "fully effective and enforceable". *Id.*

However, the Defendants' interpretation of § 3106.F ignores § 3109.H.4. Under Defendants' interpretation, § 3109.H.4, which prohibits issuance of any discharge permit for more than seven years, becomes irrelevant and mere surplusage. As Plaintiffs' argued in their Memorandum in Support of Preliminary Injunction, the plain language of § 3109.H.4 clearly prohibits the Secretary from approving - under any circumstances - a discharge permit application, modification or renewal for a period of more than seven years from the date the permit was issued. *See*, Memorandum at 6-7. Under the Defendants' interpretation of § 3106.F, the fixed term for discharge permits would be effectively eliminated, allowing for discharge permits of indefinite length so long as the permit renewal was timely. In this case, the

Defendants' position has resulted in a discharge permit being granted, without additional agency or public review, for a period of over 20 years – a result clearly not contemplated by the regulations, which expressly provide that in "no event" shall a discharge permit be approved for more than seven years from the date it was issued. 20.6.2.3109.H.4 NMAC. Further, the regulations contain no provision that would allow NMED to stay or hold in abeyance a permit application beyond the seven year permit period specified in § 3109.H.4. The Defendants' interpretation of § 3106.F effectively eliminates the provisions of §3109.H.4 in violation of the rules of regulatory construction.

Moreover, the Defendants' interpretation of § 3106.F would lead to an absurd result that undermines the regulations' and Water Quality Act's purposes. The purpose of the discharge permit regulations is to "protect all ground water of the state of New Mexico which has an existing concentration of 10,000 mg/l or less TDS, for present and potential future use as domestic and agricultural water supply ...". 20.6.2.3101.A NMAC. The regulations' purpose echoes the purpose of the Water Quality Act, which is to prevent and abate water pollution. *Bokum Res. Corp. v. N.M. Water Quality Control Comm'n*, 93 N.M. 546, 555, 603 P.2d 285, 294 (1979).

Under the Defendants' interpretation of § 3106.F, however, an operation conducting permitted discharges could submit a discharge permit renewal application 120 days before its expiration and continue discharging indefinitely. Therefore, if NMED fails to act on a permit renewal application for over 15 years, for example, groundwater discharges would continue under an antiquated and outdated plan and would not be subject to public review. This scenario which the Defendants appear to support, subverts the very purpose of discharge permit renewals, i.e., periodic review to determine if the nature of the discharge has changed, whether continued

discharges are expected to result in violations of groundwater standards, or whether circumstances that may affect the discharging operation have changed, for example the advent of new pollution control technology or new information about the hydrological properties of the discharge site. By supporting the proposition that permittees can hold a discharge permit indefinitely or conduct discharging activities for an indefinite period of time, the Defendants' regulatory interpretation undermines the purposes of the Water Quality Act and its regulations.

Significantly, the Defendants' current position contradicts the Environmental Improvement Division's ("EID") position in 1989. In the November 2, 1989 letter approving HRI's discharge permit the EID specifically stated, "[t]he term of this approval shall be five years from the date the discharge commences, or seven years from the date of this letter, whichever occurs first." A copy of that letter is attached as Exhibit 2. Thus, the Defendants' predecessor agency understood the regulations to prohibit permit terms of more than seven years and HRI had ample notice of this requirement.

B. There is No Genuine Issue of Material Fact.

A genuine issue of material fact arises when there is a dispute over material factual issues that would affect the outcome of a trial. *Parker v. E.I DuPont de Nemours Co., Inc.*, 121 N.M. at 124, 909 P.2d at 5; *Garcia v. City of Albuquerque*, 232 F.3d at 768. In this case, the only facts that could affect the outcome of the case are undisputed.

1. There is No Factual Dispute Appropriate for Submission to a Finder of Fact.

As noted in Section II, above, there are five facts that the pleadings, affidavits and documentation demonstrate are undisputed. There is no dispute about these facts such that it is appropriate to submit them to a jury or other finder of fact. *See, General Electric Credit Corp. v. Tidenberg*, 78 N.M. at 61, 428 P.2d at 35. Thus, no material factual dispute exists. Moreover,

these undisputed facts are all the facts that are necessary to make a determination as to the legality of Defendants' regulatory interpretation.

2. There are No Material Facts in Dispute.

For the purposes of summary judgment, a fact is material if it can affect the outcome of a case. *Parker v. E.I DuPont de Nemours Co., Inc.*, 121 N.M. at 124, 909 P.2d at 5. In this case, while there are facts in dispute about whether NMED acted on HRI's 1996 discharge permit renewal application, those facts are not material to whether Plaintiffs should be awarded summary judgment.

Plaintiffs and Defendants Martin and NMED dispute whether NMED acted upon HRI's 1996 renewal application. Plaintiffs contend that NMED granted the renewal application. Reply at 7-8. Defendants contend the documents showing that NMED granted HRI's renewal application were issued in error and that NMED never acted on HRI's 1996 discharge permit renewal application. Response at 10-11. However, none of these facts are material to the determination of whether Defendants properly consider HRI's DP-558 effective and enforceable.

Moreover, when evaluating facts presented for summary judgment, a court must construe the facts and inferences from those facts in the light most favorable to the non-movant. *General Electric Credit Corp. v. Tidenberg*, 78 N.M. at 61, 428 P.2d at 35. Even when considered in the light most favorable to Defendants and considering all reasonable inferences, i.e., that NMED failed to act on HRI's 1996 permit renewal application and that it is still pending, the facts do not affect the outcome of the purely legal question of whether Defendants improperly interpreted the Water Quality Act regulations and therefore improperly consider HRI's DP-558 effective and enforceable. Put another way, the determination of whether Defendants properly construed § 3106.F and § 3109.H.4 is unaffected by a decision about whether NMED acted on HRI's 1996

renewal application or not. Therefore, that factual dispute is immaterial in the context of summary judgment.

V. CONCLUSION

For all the foregoing reasons, Plaintiffs are entitled to summary judgment on Claim I of their Complaint and the declaratory judgment portion of Claim II of their Complaint.

Respectfully submitted this 1st day of September, 2011.

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of September, 2011, I have delivered a copy of the foregoing pleading in the above-captioned case via email and U.S. mail, fist class, to the following:

Charles de Saillen
Assistant General Counsel
Office of General Counsel
New Mexico Environment Department
Harold Runnels Bldg., Rm. N4100
1190 St. Francis Drive
Santa Fe, NM 87505

Gary King
New Mexico Attorney General
408 Galisteo Street
Villagra Building
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Michael R. Comeau
Jon J. Indall
Comeau, Maldegen, Templeman & Indall, LLC
141 East Palace Ave., 2nd Floor
PO Box 669
Santa Fe, NM 87504-0669

By:

HRI, INC.

DP-558 SUPPLEMENTAL MATERIALS

VOLUME 1

Section	Title
--	NMED Discharge Permit Application Parts A, B & C.
B-7	Operational Plan Supplement.
B-10	Water Rights.
C-1	Area Map.
C-3	Topographic Map.

April 1, 2011

EXHIBIT
1

NEW MEXICO ENVIRONMENT DEPARTMENT
GROUND WATER QUALITY BUREAU

DISCHARGE PERMIT APPLICATION

Type of Application. Check appropriate box.

- ☐ Application for new Discharge Permit – new facility
- ☐ Application for new Discharge Permit – existing (unpermitted) facility
- ☒ Application for Discharge Permit Renewal (Supplement to Application of 07/02/96)
- ☐ Application for Discharge Permit Modification
  "Modification" is defined as a change to the permit requirements that result from a change in the location of the discharge, a significant increase in the quantity of the discharge, or a significant change in the quality of the discharge.
- ☐ Application for Discharge Permit Renewal and Modification

For an existing Discharge Permit, please indicate: DP Number 558 Expiration date N/A T. Renewal

Checklist of Application Components.

☒ Part A: Administrative Completeness.	*Instructions for completing the application are included on the form itself and on Supplemental Instructions for Parts A and B.* *You may fill out the application manually, or a Microsoft Word version may be downloaded from www.nmenv.state.nm.us (Ground Water Quality) and filled out electronically.*
☒ Part B: Operational, Monitoring, Contingency and Closure Plans, with required attachments. *Choose appropriate option:* ☐ Septic Tank System ☒ General – Various Facility Types	
☒ Part C: Site Information, with required attachments.	
☐ $100 Filing Fee, payable to the New Mexico Environment Department. *Required from all applicants.* An additional fee will be assessed prior to permit issuance. Permit fees are listed in Section 20.6.2.3114 NMAC.	

Fee paid with Renewal Application.

Certification. Signature must be that of the person named in Item A-3 of Part A of the application.

I certify under penalty of law that I am knowledgeable about the information contained in this application. The information is, to the best of my knowledge and belief, true, accurate and complete.

Signature: _____ Date: April 1,2011

Printed Name: Mark S. Pelizza, P.G.

Title: Sr. Vice President

Send three complete copies of this application and the filing fee to:

Program Manager
Ground Water Pollution Prevention Section
New Mexico Environment Department
PO Box 5469
Santa Fe, NM 87502

GROUND WATER DISCHARGE PERMIT APPLICATION
PART A: ADMINISTRATIVE COMPLETENESS
All Facilities

A-1. Facility Information. See Supplemental Instructions to determine what constitutes the "facility." The physical location of the facility must be provided. If the facility does not have an address, the location can be described by road intersections, mile posts, or landmarks, as appropriate.

Facility Name: Church Rock Section 8 ISR Project

Former Names (if any):

Physical address/location *(mandatory)*: SE/4, Section 8, T16N, R16W, ~6 miles north of the town of Church Rock on SH 566 County McKinley

Mailing address: HRI, Inc., P.O. Box 888, Crownpoint, New Mexico 87313

Contact person: Mark S. Pelizza

Title: Sr. Vice President

Telephone number(s): 972-219-3337 - Office; 214-683-8889 - Cell

Fax number: 972-219-3311 E-mail address: mspelizza@uraniumresources.com

A-2. Type of Discharge and Type of Facility. See Supplemental Instructions.

Type of discharge: ☐ Domestic ☐ Agricultural ☐ Industrial ☒ Mining

Type of facility: In Situ Recovery Uranium

A-3. Applicant Information. The applicant is the person or entity (e.g., corporation, partnership, organization, municipality, etc.) legally responsible for the discharge and for complying with the terms of the Discharge Permit. If the applicant is an entity, then the name and title of a contact person must be provided. This application must be signed by the applicant or contact person named here.

Applicant Name: HRI, Inc.

Mailing address: 405 State Highway 121 Bypass, Building A, Suite 110
Lewisville, TX 75067

Contact person: Mark S. Pelizza

Title: Sr. Vice President

Telephone number(s): 972-219-3337 - Office; 214-683-8889 - Cell

Fax number: 972-219-3311 E-mail address: mspelizza@uraniumresources.com

A-4. Consultant Information (if applicable). If the consultant is a company or organization, then the name and title of a contact person must be provided.

Consultant/Firm Name: None currently

Mailing address: _____

_____

Contact person: _____

Title: _____

Telephone number(s): _____

Fax number: _____ E-mail address: _____

A-5. Permit Contact Information (if applicable). If someone other the applicant listed in Item A-3 or a consultant listed in Item A-4 is a primary contact for this application and/or facility, list here.

Permit Contact Name: None currently

Title: _____

Mailing address: _____

_____

Telephone number(s): _____

Fax number: _____ E-mail address: _____

A-6. Ownership.

The applicant owns (check as appropriate): ☒ the facility ☐ some discharge sites ☒ all discharge sites

If other parties own the facility or any of the discharge sites, attach their names and contact information.

A-7. Discharge Quantity.

Your Discharge Permit will specify a maximum discharge volume, which is typically expressed as the maximum number of gallons per day that may be treated and/or disposed of. Please indicate below the maximum discharge volume for your facility. You must show how it was determined in Part B of your application. For further explanation, see Supplemental Instructions for Part B.

Maximum discharge volume: _____ gallons per day (or other units: 4,000 gpm circulated)

A-8. Processing, Treatment, Storage and Disposal System. Briefly describe how wastewater, sludge, etc. is processed, treated, stored, and/or disposed of at your facility. See Supplemental Instructions for examples of system components.

See Attachment A-8

A-9. Discharge Locations. List the locations of your facility and of all components of your processing, treatment, storage and/or disposal system. Examples of components include septic tanks, lagoons, leachfields, irrigation sites, mine stockpiles, etc. Additional examples are listed in the Supplemental Instructions. Latitude and longitude are optional unless township, range and section are not available. .

Components	Township	Range	Section(s)	Latitude	Longitude
Facility (and ISR Operating Area)	T16N	R16W	SE/4 - 8	Lat. 35d, 37',42"	
				Long. 108d,33'05"	

A-10. Discharge Quality.

Indicate the expected quality of the discharge -- wastewater, leachate, sludge, etc. -- generated, stored, treated, processed and/or discharged at your facility. List the contaminants of concern and the expected concentrations. *Not all facilities need to characterize influent quality.* See Supplemental Instructions for typical contaminants and additional guidance.

Expected or Known Contaminants	**Expected or Known Contaminants** Indicate units: mg/L, CFU/100 ml, etc.	
	Incoming (Influent)	Final (Effluent)
Uranium	~150 mg/l	~1 mg/l
See Attachment B-7, Table 3.2-1,		
"Projected Leach	Solution Chemistry"	
for other constituents.		

For **new** septic tank systems, you may either fill out the chart above or simply check one of the following options:

☐ typical domestic wastewater

☐ low-strength domestic wastewater (large gray water component; e.g., laundromat, spa, etc.)

☐ high-strength domestic wastewater (low water use; e.g., RV park, low-flow toilets at campground, etc.)

A-11. Ground Water Conditions.

All applicants must provide the depth to and pre-discharge TDS concentration of the ground water that could be affected by the discharge. Refer to Supplemental Instructions for details on how to obtain these values.

Indicate the depth to the most shallow ground water beneath the discharge site. If there are multiple discharge sites, indicate the range of depths.

Depth to water (feet): 275

Reference:

☒ Measurement, nearby monitoring well

☐ Measurement, nearby supply well

☐ Well log from nearby well (attach copy)

☐ Office of the State Engineer http://www.ose.state.nm.us/

☐ Report or study (give citation here and attach relevant portion):

☐ Other (describe):

Indicate pre-discharge total dissolved solids (TDS) concentration of most shallow ground water beneath the discharge site. Attach copies of analyses.

TDS (mg/L): 835

Reference:

☐ Analysis from upgradient monitoring well

☒ Analysis from on-site supply well

☐ Analysis from shallow nearby supply well

☐ Concentration provided in previous Discharge Permit application

☐ Report or study (give citation here and attach relevant portion):

☐ Other (describe):

A-12. Public Notice. See Supplemental Instructions.

a) The public notice packet including instructions and materials should be sent to:

☑ Applicant ☐ Consultant ☐ Other: _____

b) Copies of the public notice packet (excluding sign) should be sent to:

☑ Applicant ☐ Consultant ☐ Other: _____

c) The applicant is required to provide public notice of this application by placing a display ad in a newspaper of general circulation near the location of the proposed discharge. Indicate newspaper you intend to place the ad in:

Newspaper: The Gallup Independent

d) *For new or modification applications only:* The applicant must post a sign for 30 days in a conspicuous location at or near the facility, as approved by NMED. One sign must be posted for each 640 contiguous acres or less of the discharge site. An additional notice must be posted at an off-site location conspicuous to the public. Describe the locations below where you intend to post the notices. You may also attach sketches or photographs.

At or near facility:
2 by 3 feet in size

Off-site location:
flyer size

Supplemental Instructions for Part A

All Facilities

Please note: Discharge Permits are required for a wide range of facilities that process, treat, store and/or dispose of wastewater, sludge, septage, leachate, contaminated soils, mine tailings, industrial waste, mine ore, waste rock, or other similar materials. For the purposes of this application form, the term "discharge" applies to any of these materials whether they are actually discharged or whether they represent only a potential discharge that could occur due to factors such as poor maintenance, improper installation, equipment failure or accidents.

A-1. Facility Information.

The "facility" may be identified as:

a) a treatment facility, such as a municipal wastewater treatment plant;
b) the source of the discharge, such as a subdivision, dairy, or waste rock pile;
c) a disposal facility or operation, such as for sludge or septage;
d) the discharge location or recipient of reclaimed wastewater for reuse, such as a golf course or cement plant;
e) a storage and/or processing facility with off-site disposal;
f) a collection of facilities, such as numerous comfort stations at a state park; or
g) a project or operation, such as a construction project or a system to distribute reclaimed wastewater throughout a city.

A-2. Type of Discharge and Type of Facility.

Characterize the type of discharge, wastewater, sludge, leachate, etc. generated, processed or received by your facility as domestic, agricultural, industrial or mining. Examples of a variety of facility types are categorized below.

Domestic Waste

"Domestic" waste contains human excreta or originates from typical residential plumbing fixtures.

- Municipal wastewater treatment plant
- Septage disposal

- Sludge disposal
- Mobile home/RV park
- Campground/park
- School/educational facility
- Restaurant
- Subdivision/apartment complex
- Unincorporated community
- Lodging/resort/spa
- Residential facility
- Commercial/shopping complex
- Laundromat
- Facility using reclaimed domestic wastewater

Agricultural Waste

- Dairy
- Food processing
- Slaughter facility
- Nursery/greenhouse
- Manufacture/processing of agricultural chemicals
- Feedlot
- Livestock truck washout

Industrial Waste

- Manufacturing
- Power plant
- Military installation
- Vehicle/equipment wash
- Mortuary
- Hydrocarbon landfarm
- Ground water remediation
- Ethanol plant
- Asphalt plant

Mining Waste

- tailing impoundment
- mine dewatering
- waste rock pile
- smelter slag
- in-situ leach
- leach piles
- pipelines
- collection ponds
- concentrator – other beneficiation

This listing is only a guide, as there can be crossover between categories. For example, a golf course might use treated industrial wastewater for irrigation. The type of facility in that case is "golf course" and the type of waste is "industrial." A mining operation may need a permit for its restroom and shower facilities. In that case, the type of facility is a "mining operation" and the type of discharge is "domestic waste."

A-7. Discharge Quantity.

Refer to the Supplemental Instructions for Part B for information on how to calculate the maximum discharge volume for your facility.

A-8 and A-9. Treatment, Storage, Disposal System.

The following are examples of treatment, storage and disposal methods:

Treatment Methods

- Septic tank
- Grease interceptor
- Oil/water separator
- Manure separator
- Wetlands
- Lagoon (indicate whether aerated and type of liner)
- Trickling filter
- Activated sludge (extended air, SBR, etc.)
- Sand filter
- Membranes
- Sludge drying bed
- Disinfection (specify type)
  - chlorination
  - UV/ozone
- Water treatment plant

Storage Methods

- Above/below ground tank
- Storage lagoon (indicate type of liner)
- Holding tank
- Pit toilet
- Stockpile
- Tailing impoundment

Disposal Methods

- Leachfield
- Infiltration gallery
- Evaporation lagoon (indicate type of liner)
- Evaporation tank
- Impoundment
- Discharge to waters of the US (NPDES permit required)
- Ongoing land application (specify type)
  - subsurface irrigation
  - sprinkler irrigation
  - flood irrigation
  - drip irrigation
  - surface spreading (solids)
  - surface injection (solids)
- Temporary uses of reclaimed wastewater

- Ongoing use of reclaimed wastewater for:
  - manufacturing
  - construction or dust control

A-9. Discharge Quality.

Untreated wastewater entering a treatment facility (also referred to as "influent") must be characterized so that the treatment process can be evaluated. It is not necessary to provide influent quality for systems providing minimal treatment prior to discharge or disposal, such as systems relying on crop uptake for treatment (e.g., dairies), septic tank – leachfield systems, storage/processing facilities or evaporative systems. The final quality of the waste or wastewater disposed of or discharged must be characterized for all facilities.

For most agricultural and domestic facilities, the contaminants of concern include nitrate as nitrogen (NO_3-N), total Kjeldahl nitrogen (TKN), total dissolved solids (TDS), and chloride (Cl). For domestic facilities with advanced treatment, additional contaminants include total suspended solids (TSS), biochemical oxygen demand (BOD_5), and fecal coliform bacteria. Contaminants of concern at industrial and mining sites include pH, metals, and organic compounds. List all that apply.

A-10. Ground Water Conditions.

The depth to ground water beneath your facility and/or discharge site must be provided. This is true even if your facility or operation is intended to have no discharge. Discharge Permits are required for "no-discharge" lagoons, storage tanks, etc. because of the potential for a discharge to occur due to factors such as improper installation, poor maintenance, equipment failure or accidents.

The best way to determine the depth to water is to measure it in an on-site or nearby monitoring well. If a monitoring well is not available, the measurement may be from a water supply well. If there is a well but it is not possible to access it for a measurement, you could refer to the well log for that well and/or others in the vicinity. Well log information is available on the website of the State Engineer's office:

http://www.ose.state.nm.us/.

Be aware that water levels have dropped in many areas of the state, so more recent well logs in those areas are more reliable.

There may be a significant discrepancy in the depth to water in different wells, even when falling water levels is not a factor. One reason for this is that a water supply well may rely on a deep aquifer rather than water in the "first" or most shallow aquifer. Discharge Permits are intended to protect all ground water, so it is important to report the most shallow depth in the vicinity of your site.

The total dissolved solids (TDS) concentration of the ground water prior to discharge must be provided. As explained for the depth to water, this is true even if your facility or operation is intended to have no discharge. The TDS value provides a general indication of the quality of the ground water that could be affected by your operation.

The best way to obtain a pre-discharge TDS concentration is to sample an on-site or nearby well before your facility begins operating. It is better to sample a shallow rather than a deep well, if possible. It may be that a neighboring facility has existing analytical data for its Discharge Permit. (If so, be sure to obtain data from a non-impacted well.)

If there are no wells in your vicinity or it is not possible to sample them, you may find general TDS concentrations in reports available from sources such as a university, the State Engineer's Office (http://www.ose.state.nm.us/) or the US Geological Survey (http://nm.water.usgs.gov/). If you are renewing or modifying your Discharge Permit, you may refer to the TDS concentration previously determined if there was a sound basis for it. Monitoring data or other information obtained since the permit was issued, however, may warrant listing a different value.

A-12. Public Notice.

The latest revision of 20.6.2.3108 NMAC, which specifies the applicant's public notice requirements, is effective as of July 16, 2006. Once NMED has determined that your application is administratively complete, **the instructions and materials necessary to complete the public notice requirements will be sent to you.**

Attachment A-8
Summary of Processing, Treatment, Storage and Disposal System.

In situ mining involves the use of a leaching solution (lixiviant) to extract the mineral of interest from the geologic formation in which it occurs. This is accomplished by injecting the lixiviant through injection wells completed in the zone of interest, dissolving the target minerals, then recovering the pregnant lixiviant, or production fluid by pumping production wells. At HRI's Section 8 property, uranium will be extracted from roll front type deposits which contain an average ore grade of approximately 0.15 percent. The ore deposits are usually a few feet in thickness.

Various well patterns are typically used for uranium in situ mining at the Section 8 site. Each wellfield area consists of groups of these patterns which are installed to correspond to the irregular geometry of the ore bodies.

At the Section 8 site, the lixiviant consists of native groundwater to which gaseous carbon dioxide (or another form of sodium bicarbonate), and oxygen have been added. After the lixiviant is injected into injection wells, and recovered through production wells it is piped to the ion exchange facility where the uranium is removed by circulating the pregnant lixiviant through ion exchange resin. The barren lixiviant is returned to the wellfield. At the satellite projects, ion exchange resin, or yellowcake slurry will be transported in appropriate trailers to the Crownpoint Processing Plant (CPP) where it will be further processed to its final form. If resin is hauled, it will be returned to the IX system for further use after it has been stripped of uranium at the CCP.

Once the economic recovery limit of a mine area is reached, lixiviant injection is stopped, and the affected ground water is treated (restored) to return the water to a quality consistent with baseline as required by controlling regulatory authorities.

GROUND WATER DISCHARGE PERMIT APPLICATION
PART B: OPERATIONAL, MONITORING, CONTINGENCY AND CLOSURE PLANS
GENERAL FORM (VARIOUS FACILITY TYPES)

Operational Plan *[Section 20.6.2.3106.C, 3109.C NMAC]*

B-1. Source(s) of the Discharge. Describe what generates the wastewater, sludge or other discharges processed and/or disposed of at your facility. Identify all sources. Attach additional pages, if needed. See Supplemental Instructions.

The facility will be zero surface discharge to the surface waters of the state. Groundwater will be recirculated through the well field through the mineralized portion of the Westwater Formation during ISR uranium operations. Discrete process waste may be diverted to double lined ponds prior to processing and evaporation or stored in tankage.

B-2. Discharge Quantity. Describe the methods/calculations used to determine the maximum discharge volume listed in Item A-6 in Part A of your application. Attach additional pages, if needed. See Supplemental Instructions.

Groundwater will be circulated through the well field into the mineralized portion of the Westwater Formation at a maximum rate of 4000 gallons per minute. The rate is dictated by the operator. This rate of flow has been licensed by the U.S. Nuclear Regulatory Commission.

B-3. Site Map. Attach a site map showing the components of your proposed system and relevant surrounding features, clearly labeled, such as:

- treatment units
- lagoons
- tanks
- sumps
- manure separators
- land application fields
- domestic wastewater reuse areas
- pits
- stockpiles
- leachfields
- sludge drying beds
- roads
- buildings
- supply wells
- monitoring wells
- extraction/injection wells
- arroyos
- nearby water bodies such as ponds or canals
- property boundaries
- other permitted discharges
- required setbacks
- north arrow

If map is not to scale, mark distances on the map.

☒ Site map is attached. See Attachment B-7, Plate 1

B-4. Flood Protection. Describe the methods used to prevent flooding and run-off at the facility (tank protection, berms, diversion channels, etc.)

HRI has analyzed the Church Rock site's surface hydrology using the U.S. Army Corps of Engineers models HEC-1 and HEC-2. The land surface in the Church Rock lease area exhibits gentle slopes between 1 and 3 degrees toward an arroyo that is incised about 17 ft. and traverses southwesterly across the site. The arroyo's 100-year water level is found within the steep banks formed by the arroyo walls at the site. Therefore, flow concentrations in the site area during a 100-year runoff event would be confined to the arroyo channel and no flood prevention is planned.

B-5. Plans and Specifications. For new facilities and for new components of existing systems, attach plans and specifications certified by a New Mexico registered professional engineer. *[Section 20.6.2.1202 NMAC]*

☐ Not applicable because no new facilities are proposed.

☐ Plans and specifications are attached.

☐ Plans and specifications were previously submitted. Submittal date(s): _____

B-6. Description of Components. Provide descriptive details of all components of your processing, treatment, storage and/or disposal system. Include all components listed under Item A-8 in Part A.

Component	Description (construction material, liner type, irrigation method, capacity, dimensions, area, etc.)
Wellfield and monitor wells	See Attachment B7 Section 5
Surface piping	See Attachment B7 Section 2
Ion exchange tankage	See Attachment B7 Section 2
Process tankage	See Attachment B7 Section 2
Ion exchange resin	See Attachment B7 Section 3
Foundations	See Attachment B7 Section 2
Retention Ponds	See Attachment B7 Section 2

B-7. Operational Plan. Attach a detailed description of how you operate your processing, treatment, storage and/or disposal system.

Animal feeding operations: include stormwater management, nutrient management plans, method for mixing irrigation and wastewater.

Domestic wastewater treatment facilities: include pre-treatment, solids management, vegetation management for land application.

Facilities using reclaimed domestic wastewater above ground: include proposed water quality classification(s), effluent monitoring, setbacks, irrigation schedules, etc. that will result in protection of public health and the environment. Please refer to *NMED Ground Water Quality Bureau Guidance: Above-Ground Use of Reclaimed Domestic Wastewater* for further information. A copy of the guidance document is available on the NMED website www.nmenv.state.nm.us under "Ground Water Quality".

☒ Operational plan is attached. See Attachment B-7

☐ Operational plan was previously submitted. Submittal date(s): _____

B-8. System Maintenance. Attach a description of the operations and maintenance procedures which ensure that your processing, treatment and disposal system functions properly; e.g., inspections, pumping schedules, equipment maintenance, etc. Maintenance and monitoring in Attachment B-7.

☐ O & M procedures are attached.

☐ O & M procedures were previously submitted. Submittal date(s): _____

B-9. Backflow Prevention. If wastewater is used for land application or irrigation, describe methods used to protect wells from contamination by wastewater backflow. For new facilities or new systems at an existing facility, only air gap or reduced pressure valve assemblies are acceptable methods.

a) Clearly describe and/or sketch the location of air gaps or devices and attach specifications.

Not applicable

b) Describe how devices are maintained.

Not applicable

B-10. Water Rights. Animal feeding operations which land apply wastewater must attach documentation of irrigation water rights for the proposed land application fields, sufficient to sustain the intended crop rotation.

☒ Water right documentation is attached. See Attachment B-10

☐ Not applicable.

B-11. Past Ground Water Monitoring Results. *This item applies only to existing facilities seeking renewal and/or modification of a Discharge Permit that required ground water monitoring.* Not applicable

a) Attach a graph or a table showing all analytical results from ground water sampling at your facility. If preparing graphs, a separate graph should be developed for each constituent, except that nitrate and TKN may be shown on the same graph. Multiple wells may be shown on the same graph. See Supplemental Instructions for sample table and graph.

b) If the monitoring results indicate that ground water standards have been violated or that there is an upward trend approaching standards, attach a description of what actions you have taken or will take to address the elevated concentrations. Ground water standards are listed in Section 20.6.2.3103 NMAC. See the Supplemental Instructions for frequently referenced standards.

Monitoring Plan *[Section 20.6.2.3107.A NMAC]*

B-12. Discharge Volumes. Describe how and where the monthly discharge volume at your facility will be. For all measuring devices, provide type, location, and units of measure including multipliers (e.g., gallons, gallons x 100, acre-ft, etc.) See Supplemental Instructions. Attach additional pages, if necessary.

Monthly discharge volumes will be measured at individual from trunk lines in header houses that serve as collection centers for wellfield operations. For detail on wellfield operations see the Attachment B-7 Section 3.

B-13. Discharge Quality Monitoring. Discharge Permits typically require that the discharge (treated wastewater, sludge, septage, etc.) be sampled on a regular basis. The frequency of sampling varies by type of facility, as do the contaminants of concern. Domestic and agricultural Discharge Permits typically require sampling for total Kjeldahl nitrogen (TKN), nitrate-nitrogen (NO_3-N), total dissolved solids (TDS) and chloride on a quarterly or semi-annual basis. *(continued on next page)*

If reclaimed domestic wastewater will be discharged for above ground uses, testing of the discharge for additional parameters is appropriate. Please refer to the *NMED Ground Water Quality Bureau Guidance: Above-Ground Use of Reclaimed Domestic Wastewater* for further information.

In the space below, provide a description or sketch of the sampling point(s) to be used for sampling the discharge at your facility.

Water will be sampled daily from the well field trunk lines in the meter houses. See Attachment B-7.

Optional: In the space below (or as an attachment), you may propose revisions or additions to the standard discharge quality monitoring requirements. If you do, provide the rationale for your proposal.

B-14. Ground Water Quality Monitoring. Discharge Permits typically require that ground water samples be collected quarterly from properly constructed monitoring wells located downgradient from discharge locations. The samples must be analyzed for contaminants of concern. For most domestic and agricultural Discharge Permits, the typical contaminants of concern are total Kjeldahl nitrogen (TKN), nitrate-nitrogen (NO_3-N), total dissolved solids (TDS) and chloride.

Optional: In the space below (or as an attachment), you may propose revisions or additions to the standard ground water monitoring requirements. If you do, provide the rationale for your proposal.

Wellfields, and groundwater will be regularly monitored during operations. Attachment B-7 Section 5.

For existing facilities: Not applicable.

Indicate number of existing monitoring wells: _____

Attach copies of monitoring well logs.

☐ Well logs attached. ☐ Well logs cannot be located.

☐ Well logs previously submitted. Submittal date(s): _____

Attach copy of monitoring well survey (typically not applicable if fewer than 3 monitoring wells).

☐ Survey attached. ☐ No survey has been conducted.

☐ Survey previously submitted. Submittal date(s): _____

B-15. Other Monitoring. In addition to discharge volumes, discharge quality monitoring and ground water sampling, Discharge Permits typically require the following monitoring, depending on the type of facility:

- inspection and pumping of septic tanks, grease tanks, lift stations
- inspection of leachfields
- inspection of lagoons
- process testing for treatment plants
- land application data sheets (LADS)
- tracking of chemical fertilizer applications to land application areas
- soil sampling (agricultural and selected other facilities land applying wastewater)
- harvested plant material testing (agricultural facilities)

Optional: In the space below (or as an attachment), you may propose revisions or additions to the other standard monitoring requirements for your type of facility. If you do, provide the rationale for your proposal.

Attachment B-7 Section -- and C-9 Sections 5303 and 5304.

Contingency Plan *[Section 20.6.2.3107.A.10 NMAC]*

B-16. System Failure. Describe your contingency plan in the event there is a failure of your wastewater or discharge system (e.g., wastewater back-up, pump failure, pipe breaks, tank overflow, leachfield failure, saturated fields etc.)

Attachment C-9 Section 5303

B-17. Contingency Leachfield Location. *This item applies only if your disposal system includes a leachfield.* Identify a location on your site map (Item B-3) for a contingency leachfield in the event that your leachfield must be replaced. If no land is available for a contingency leachfield at an existing facility, describe how you will address a failed leachfield. New facilities must provide for a contingency leachfield location.

Not applicable.

B-18. Other Contingencies. Discharge Permits typically contain standard contingencies to address:

- exceeding wastewater quality limits
- violation of ground water or surface water standards
- spills or illegal releases of wastewater
- migration of soil nitrogen
- loading nitrogen above limit

Propose additional contingency plans, if appropriate:

Not Applicable

Closure Plan *[Section 20.6.2.3107(A)11 NMAC]*

B-18. Facility Closure and Post-Closure Monitoring. Discharge Permits contain standard requirements to address the closure of part or all of your discharge system, as follows:

- cap or plug lines to prevent the flow of wastewater to treatment or disposal system
- empty and remove or backfill tanks
- empty lagoons, perforate or remove liners, re-grade to surface topography
- appropriately dispose of solids
- regrade and cover stockpiles at mine facilities
- continue ground water monitoring for at least two years, longer as appropriate
- enact contingency plans if ground water standards are violated
- financial assurance may be required.

Propose additional closure plans in the space below or as an attachment, if appropriate:

Attachment C-9 Section 5209

Please Note: You must also complete Part C of the application.

Supplemental Instructions for Part B – General Form

B-1. Source(s) of the Discharge.

Be specific in describing all sources. Consider the following examples:

- Municipalities – identify particular industries or specialized facilities contributing wastewater.
- RV Parks – identify showers, dump stations, laundromat, etc.
- Subdivisions – identify homes, apartments, commercial developments, water softener backwash, etc.
- Landfarms or disposal facilities – specify type of materials accepted, e.g., residential septage, car wash grit trap waste, contaminated soils/water, treated municipal sludge, etc.
- Dairies – identify milking parlors, type of washdown used, sources of stormwater runoff, etc.
- Schools – identify cafeteria, gym, showers, etc.
- Truck stops – identify restaurant, showers, car wash, etc.
- Facilities receiving reclaimed wastewater – identify the treatment facility providing the reclaimed wastewater.
- Food processing and industrial facilities – describe the processes which produce the waste stream and chemicals used.
- Mines – identify processes including beneficiation, tailing, waste rock, leach facilities, pipelines, ponds, catchments, booster stations, in-situ leach facilities.

You do not need to include solid wastes, hazardous wastes or discharges being managed under other permits; however, these should be listed under Item C-7 in Part C of the application.

B-2. Discharge Quantity.

Your Discharge Permit will allow for the treatment, processing and/or discharge of up to a specified volume, generally, a maximum number of gallons per day. The flow at your facility on any given day must not exceed this "maximum discharge volume." It is determined based on the expected contributions from the sources you identified in Item B-1.

NMED will carefully review the basis of the maximum discharge volume you propose. Show all your calculations and assumptions.

Animal feeding operations must provide calculations based on the number of animals and water conservation practices in place.

Landfarms, disposal facilities, processing facilities typically identify the expected number of loads to be delivered.

For septic systems and wastewater treatment plants, the maximum discharge volume is also referred to as the "design flow." It includes a peaking or safety factor to guard against back-ups and overflows.

Municipal wastewater treatment facilities should identify the population served, growth assumptions, and expected per capita usage considering any contributing industries.

On-site domestic wastewater treatment facilities should rely on published design flows such as those provided in the NMED Liquid Waste Regulations (20.7.3 NMAC), the Uniform Plumbing Code or the USEPA On-site Wastewater Treatment Systems Manual.

For existing facilities, the maximum discharge volume may be based on a record of measured flows if no changes are anticipated. At least two years of flow data must be submitted, and the highest monthly discharge volume must be multiplied by a peaking factor of 1.5.

NMED will verify that your proposed or existing facility can handle maximum discharge volume you propose.

B-11. Past Monitoring Results.

A complete list of ground water standards can be found in Section 20.6.2.3103 NMAC. The standards for contaminants most frequently monitored under Discharge Permits are as follows:

Nitrate-nitrogen (NO_3-N)	10 mg/L
Chloride	250 mg/L
Total dissolved solids (TDS)	1000 mg/L
Sulfate (SO_4)	600 mg/L
pH	between 6 and 9

There is no ground water standard for total Kjeldahl nitrogen (TKN). Because TKN converts readily to nitrate as it moves through the vadose zone, however, concentrations approaching or exceeding 10 mg/L are of concern.

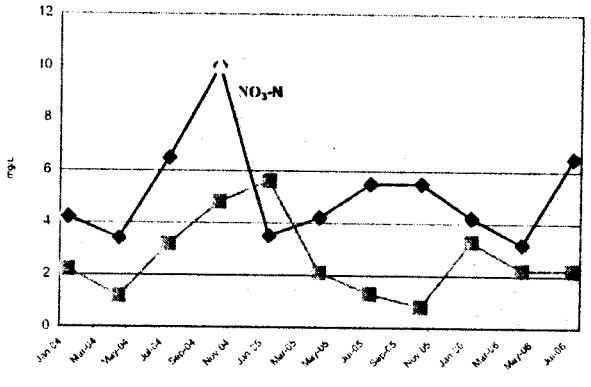
Additional parameters typically apply at mining or industrial facilities.

Some ground waters in the state have TDS or chloride concentrations that naturally exceed these standards. In that case, the standard is the naturally occurring level. You must provide documentation of such elevated natural conditions, such as analytical results from a non-impacted well.

An example table and graph follow:

Date	Monitoring Well 1	
	NO3-N	TKN
Jan-04	4 2	2 2
Apr-04	3 4	1 2
Jul-04	6.5	3 2
Oct-04	10	4 8
Jan-05	3 5	5 6
Apr-05	4 2	2.1
Jul-05	5 5	1 3
Oct-05	5.5	0.8
Jan-06	4.2	3.3
Apr-06	3.2	2.2
Jul-06	6.5	2.2

Monitoring Well 1



B-12. Discharge Volumes.

You must provide a method for measuring the discharge volume (Section 20.6.2.3109.H.1 NMAC). At facilities with treatment or storage lagoons, it is necessary to measure both the volume entering the treatment system as well as the volume ultimately discharged.

If you land apply wastewater to more that one discharge location, you must be able to track the volume to each location.

If your facility is small and relies on gravity to carry wastewater to the treatment and disposal system, it may be acceptable to estimate the wastewater flow. This can be done by metering water usage and deducting the volume of water used for fresh-water irrigation, swimming pools, evaporative cooling, livestock watering or other uses that do not result in wastewater flowing to the treatment system.

GROUND WATER DISCHARGE PERMIT APPLICATION
PART C: SITE INFORMATION
All Facilities

C-1. Area Map. Attach a current area map showing roads and clearly mark the location of your facility.
See Attachment C-1

C-2. Directions to Site. Provide driving directions to the site from the nearest town or, if located in a town, from an easily identifiable location.
From Interstate 40 exit onto State Highway 566. The site is seven miles north adjacent to State Highway 566

C-3. Topographic Map. Attach a copy of the appropriate US Geological Survey topographic map. You may provide just the relevant portion. USGS maps are available at many outdoor equipment stores or bookstores, from the USGS at www.usgs.gov or 1-888-ASKUSGS, and from commercial websites.

On the map clearly indicate the location of your facility. Also identify the approximate locations of all wells within 1,000 feet of your discharge locations. The Office of the State Engineer has a searchable database of supply wells on its website at www.ose.state.nm.us.

☒ USGS map attached with facility location and neighboring wells marked. See Attachment C-3

C-4. Flood Potential. Attach a copy of the latest Federal Emergency Management Agency (FEMA) flood map with your facility's location clearly marked, to the best of your ability. Information about how to obtain this map, formally known as a Flood Insurance Rate Map (FIRM) is available at www.fema.gov, insurance agencies or county government offices. A site specific analysis may be substituted.

☒ FEMA map or site-specific analysis attached. See Attachment C-4

☐ Previously submitted and still up-to-date. Submittal date(s): _____

C-5. Soils. Attach either:

a) A copy of the appropriate Natural Resource Conservation Service (NRCS) soil survey map, with your site clearly identified to the best of your ability. Include the descriptive information for soils associated with the discharge locations. To obtain the map, contact your local NRCS office – there is one in every county.

b) A site-specific assessment showing the soils classifications. This is preferred over the more generalized NRCS surveys.

☒ NRCS soil survey or site-specific assessment attached. See Attachment C-5

☐ Previously submitted. Submittal date(s): _____

C-6. Geology. Provide information on the geology beneath the site by attaching relevant portions of geologic reports, well logs for on-site or nearby wells, or site specific assessments. A variety of geology publications and resources are available from the New Mexico Bureau of Geology and Mineral Resources at http://geoinfo.nmt.edu or 505-835-5420 (Socorro). Well logs are available from the New Mexico State Engineer's Office at http://www.ose.state.nm.us/.

☒ Geologic report attached. ☐ Well log(s) attached. See Attachment C-6

☒ Geologic information previously submitted. Submittal date(s): _____

C-7. **Ground Water Hydrology.** Ground water hydrology refers to the occurrence, distribution, movement and chemistry of ground water. The ground water hydrology at your site will determine in large part whether your discharge will adversely affect ground water quality. You may need to present detailed information in order to "demonstrate that the Discharge Permit will not result in concentrations in excess of the standards of Section 20.6.2.3103 NMAC or the presence of any toxic pollutant." (20.2.3106.C.7 NMAC)

At a minimum, provide information below on the direction of ground water flow. Ground water may not flow in the same direction as water on the surface of the ground. A monitoring well survey is one of the best methods to determine the direction of ground water flow at a particular site. Such surveys are routinely required for many Discharge Permit locations.

If a survey is not available, check with well drillers, the city water department, staff at the Office of the State Engineer, environmental consultants or other knowledgeable persons in your area. In addition, relevant reports have been published for some areas. See the OSE website at www.ose.state.nm.us or the NMBGMR website at http://geoinfo.nmt.edu.

Direction of ground water flow: North

If ground water flow shifts seasonally, describe here: _____

Reference:

☒ On-site well survey attached. ☐ Previously submitted. Submittal date(s): _____

☐ Nearby well survey attached. ☐ Previously submitted. Submittal date(s): _____

☐ Other. Specify: See Attachment C-7

☐ Relevant portion attached.

☐ Previously submitted. Submittal date(s): _____

Attach any additional information available about ground water hydrology at the site.

C-8. **Other Permitted Discharge Locations.** If applicable, list other locations of wastewater or stormwater discharges on your site that are not described in this application and indicate what permits apply to them. Examples include discharges from small septic systems (covered by Liquid Waste Permits, discharges to surface waters under a NPDES permit, a discharge covered by a separate Discharge Permit, etc. Be sure these other discharge locations are identified on the site map required in Item B-3.

Discharge Type	Permit Identification
None	

C-9. **Other Information.** Describe below or attach any additional information to demonstrate that your proposed discharge plan will be protective of ground water quality, public health and property.

Attachment C-9 Underground Injection Control Supplement

New Mexico Health and Environment Department

GARREY CARRUTHERS
Governor

DENNIS BOYD
Secretary

MICHAEL J. BURKHART
Deputy Secretary

RICHARD MITZELFELT
Director

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 2, 1989

Mr. Mark Pelizza
Enviornmental Manager
HRI, Inc.
12377 Merit Drive
Suite 750, LB14
Dallas, TX 75251

RE: Conditional Approval of DP-558
HRI, Inc. Churchrock Uranium ISL Project

Dear Mr. Pelizza:

The discharge plan (DP-558) for the HRI, Inc. Churchrock Uranium ISL Project located at T16N, R16W, Section 8, McKinley County, New Mexico is hereby approved subject to the conditions listed below. The approved discharge plan consists of the plan dated April 13, 1988, and the materials dated April 18, 1988, May 20, 1988 (Larson), May 20, 1988 (Pelizza), May 1988 (Environmental Report), August 2, 1988, Spetember 1, 1988, December 1, 1988, December 21, 1988, April 10, 1989, April 20, 1989, April 26, 1989, August 25, 1989, October 5, 1989, submitted as supplements to the discharge plan. In order to facilitate coordination with the U.S. Nuclear Regulatory Commission, this approval is subject to the following conditions:

1) HRI, Inc. provides financial assurances which satisfy both the U.S. Nuclear Regulatory Commisssion and the State of New Mexico.

2) HRI, Inc. obtains a Materials License from the U.S. Nuclear Regulatory Commission.

The discharge plan was submitted pursuant to Section 3-106 of the New Mexico Water Quality Control Commission Regulations. It is approved pursuant to Section 3-109. Please note subsections 3-109.E. and 3-109.F., which provide for possible future modification of the plan. Please be advised that the approval of this plan does not relieve you of liability should your operation result in actual pollution of surface or ground waters which may be actionable under other laws and/or regulations.

Further, approval of this ground water discharge plan does not relieve you of your responsibility to comply with any other applicable local laws and regulations, such as zoning requirements and nuisance ordinances.

-- ENVIRONMENTAL IMPROVEMENT DIVISION --
Harold Runnels Building
1190 St. Francis Dr.
Santa Fe, New Mexico 87503

The monitoring and reporting shall be as specified in the discharge plan and supplements thereto. These requirements are summarized on the attached sheet(s). Any inadvertent omissions from this summary of a discharge plan monitoring or reporting requirement shall not relieve you of responsibility for compliance with that requirement.

Please note that Section 3-109 of the regulations requires that "When a plan has been approved, discharges must be consistent with the terms and conditions of the plan."

Please be aware that in this discharge plan you have made commitments which are legally enforceable under the New Mexico Water Quality Act (74-6-1 to 74-6-4, 74-6-6 to 74-6-13 NMSA 1978). These include constructing all aspects of your installation as designed, properly installing and maintaining any required monitor wells in the prescribed locations and completely fulfilling any required monitoring commitments on schedule. You are susceptible to fines should you not fulfill these obligations.

Pursuant to subsection 3-109.G.4., the term of this discharge plan approval shall commence on the date the discharge begins. Prior to discharging, written notification shall be given to the New Mexico Environmental Improvement Division stating the date the discharge is to commence. The term of this approval shall be five years from the date the discharge commences, or seven years from the date of this letter, whichever occurs first. You should submit an application for new approval in ample time before the expiration date.

On behalf of the Ground Water Section, I wish to thank you for your cooperation during the discharge plan review.

Sincerely,

Stuart P. Castle

Stuart P. Castle
Bureau Chief
Ground Water Bureau

SPC/JP/kl

cc: Dan Vigil, EID Acting Dist. I Manager, Albuquerque
Gary Knowinski, NRC/URFO, Denver