



January 3, 2013

**VIA UPS**

David Peacock  
North Carolina Division of Waste Management  
Brownfields Program  
Mail Service Center 1646  
Raleigh, NC 27699-1646

**Re: 2013 Land Use Restrictions Update  
Brownfields Project Number: 08027-04-65  
PPD, Inc. Headquarters  
929 North Front Street  
Wilmington, New Hanover County**

Dear Mr. Peacock:

Enclosed is the completed Land Use Restrictions Update for 2013 as required by paragraph 18.n. of the Brownfields Agreement.

If you have any questions regarding this matter, please feel free to call.

Sincerely,

B. Judd Hartman  
General Counsel

Enclosures

**Brownfields Project #:** 08027-04-65  
**Brownfields Property:** PPD Headquarters, 929 North Front Street  
**Property Owner (In whole or part):** River Ventures, LLC



**LAND USE RESTRICTIONS ("LUR") UPDATE**

LUR 1: No use may be made of the Brownfields Property other than for commercial purposes, including but not limited to office space and retail establishments. For purposes of this restriction, the following definitions apply.

- a. commercial: An occupation, employment, or enterprise carried on for profit by the owner, lessee or licensee, including, without limitation, the construction, operation, occupancy, use, maintenance, repair and expansion of Prospective Developer's planned 400,000-square foot headquarters building.
- b. office: A use or structure where business or professional services are conducted or rendered.
- c. retail establishment: An activity the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer, including, in this instance, restaurants.

In compliance  X  Out of compliance \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 2: Surface water and underground water at the Brownfields Property may not be used for any purpose without the prior approval of the Department of Environment and Natural Resources ("DENR").

In compliance  X  Out of compliance \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 3: No activities that remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the satisfaction of DENR in any areas proposed for such activities, and submittal of the analytical results to DENR . Any water pumped from the ground shall be containerized, sampled and disposed of to DENR's satisfaction. If the analytical results disclose to DENR contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the approval of DENR on such conditions as DENR imposes, including at a minimum legal approval of

plans and procedures to protect public health and the environment during the proposed activities.

In compliance  X  Out of compliance \_\_\_\_\_

Remarks: See attached letters dated June 2, 2008 and December 4, 2008 regarding Request to Withdraw Groundwater and NC DENR approval of request. In addition, we are currently operating under Discharge Permit No. N123-PPD issued by the Cape Fear Public Utility Authority. See attached copy of this permit. The permit expires January 31, 2017.

LUR 4: Soil underlying paved surfaces and buildings at the Brownfields Property may not be exposed without prior sampling and analysis of such soil to the satisfaction of DENR, and submittal of the analytical results to DENR. If such results disclose contamination that would, as determined by DENR, render the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above, the soil may not be exposed without the approval of DENR on such conditions as DENR imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the activities that would expose such soil.

In compliance  X  Out of compliance \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 5: Soil, landscaping and contours at the Brownfields Property may not be disturbed without the approval of DENR. Mowing and other normal grounds maintenance, pruning of above-ground vegetation, and replacement and removal of small bushes and small trees, may occur without DENR's approval.

In compliance  X  Out of compliance \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 6: Should the planned redevelopment outside the portion of the Brownfields Property denominated "Phase I Construction" on the plat component of the Notice of Brownfields Property ("Notice") not be initiated within five (5) years after recordation of the Notice, the then owner(s) of the areas of the Brownfields Property outside said portion shall notify DENR in writing as to the status of redevelopment plans. If DENR so requests, said owner(s) shall submit for DENR's written approval, and implement to DENR's written satisfaction, plans for a permanent cap overlaying soil on the undeveloped portion of the Brownfields Property.

In compliance  X  Out of compliance \_\_\_\_\_

Remarks: There are no current plans to redevelop the property outside the portion denominated "Phase I Construction." This area continues to be used as a surface parking lot for PPD employees and guests. This area is covered primarily with asphalt and the balance with permanent landscaping.

LUR 7: No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

In compliance  X  Out of compliance \_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 8: No below-grade construction, including without limitation basements and below-grade parking, may occur on the Brownfields Property unless the structures built are, as determined by DENR, vented in conformance with applicable building codes.

In compliance  X  Out of compliance \_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 9: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in paragraph 9 of the Brownfields Agreement ("Agreement"), may be used or stored at the Brownfields Property without the prior approval of DENR, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

In compliance  X  Out of compliance \_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 10: The Brownfields Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the approval of DENR.

In compliance  X  Out of compliance \_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 11: The Brownfields Property may not be used for agriculture, grazing,

timbering or timber production.

In compliance  Out of compliance \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 12: The Brownfields Property may not be used as a playground, or for child care centers or schools without prior written approval from DENR.

In compliance  Out of compliance \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 13: The Brownfields Property may not be used for kennels, private animal pens or horse-riding.

In compliance  Out of compliance \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 14: During January of each year after the Agreement becomes effective, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update ("LURU") to DENR certifying that the Notice containing these land use restrictions remains recorded at the New Hanover County Register of Deeds office and that the land use restrictions are being complied with. Further, unless and until the second phase of construction planned by Prospective Developer at the time of recordation of the Notice is initiated, the then current owner of any affected portions of the Brownfields Property shall include with the LURU a notarized certification: (i) that landscaped areas of the Brownfields Property remain vegetated and do not exhibit soil erosion; and (ii) with information regarding the date(s) and nature of any maintenance or repair work performed since the last update, that any capped areas are being maintained in good repair.

In compliance  Out of compliance \_\_\_\_\_

Remarks: Recorded Notice: Book 4950, Page 1091

Notarized signing and submittal of this Land Use Restrictions Update constitutes certification that the Notice remains recorded at the New Hanover County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by River Ventures, LLC, owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: PPD Development, LLC, sole Member and Manager of River Ventures, LLC.

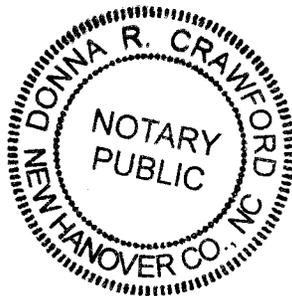
In the case of owners that are entities:

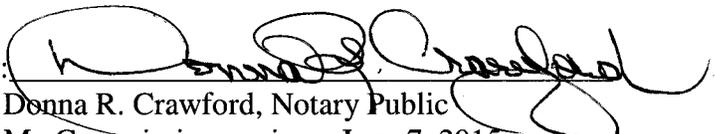
Signature of individual signing:   
Name typed or printed: B. Judd Hartman  
Title: Vice President and General Counsel

NORTH CAROLINA  
NEW HANOVER COUNTY

I, Donna R. Crawford, a Notary Public of the County and State aforesaid, certify that B. Judd Hartman personally came before me this day and acknowledged that he is the Vice President and General Counsel of PPD Development, LLC, a Delaware limited liability company and the Sole Member and Manager of River Ventures, LLC, a North Carolina limited liability company, and that by authority duly given and as an act of the limited liability company, the foregoing Land Use Restriction Update was signed in its name by him.

WITNESS my hand and official seal this 2<sup>nd</sup> day of January, 2013.



By:   
Donna R. Crawford, Notary Public  
My Commission expires: June 7, 2015

**POYNER SPRUILL LLP**  
ATTORNEYS-AT-LAW

Received  
JUN 11 2008  
Corporate Legal

H. Glenn Dunn  
Attorney-at-Law

VIA HAND-DELIVERY

Direct Dial: 919.783.2842  
gdunn@poynerspruill.com

www.poynerspruill.com

June 2, 2008

Other offices: Charlotte, Rocky Mount,  
Southern Pines

Bruce Nicholson  
N.C. Department of Environment & Natural Resources  
Division of Waste Management  
1646 Mail Service Center  
Raleigh, NC 27699-1646

Dear Bruce:

On behalf of River Ventures, LLC, I am asking for DENR's approval of a proposed plan to extract and discharge groundwater at the PPD, Inc. headquarters building in Wilmington, NC. As we understand it, such approval is required under paragraph 18.C. of River Ventures' Brownfields Agreement with DENR entered into in December, 2005, which provides that:

(No) activities that remove or use groundwater (for example, water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities) may occur on the property without prior sampling and analysis of the groundwater to the satisfaction of DENR or its successor in function in any areas proposed for such activities, and submittal of the analytical results to DENR or its successor in function. Any water pumped from the ground shall be containerized, sampled and disposed of to DENR's satisfaction. If the analytical results disclose to DENR or its successor in function contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the approval of DENR or its successor in function on such conditions as DENR or its successor or in function imposes, including at a minimum legal approval of plans and procedures to protect public health and the environment during the proposed activities.

We are sending a copy of the most recent analytical results for the groundwater tests dated May 9, 2008 and a proposal by the ENSR Consulting and Engineering (NC), Inc. describing the proposed engineering design for a system to extract the groundwater and to obtain the necessary permits for discharging the water through the City of Wilmington's storm sewer.

We realize that the ENSR plan is conceptual at this time and that you may want to review a detailed plan. However, River Ventures wants to get your preliminary approval of this conceptual approach before moving ahead. We assume that the Division of Water Quality's review of the proposed discharge will constitute a determination that treatment and disposal of the groundwater will protect public health and the environment, and we have scheduled a meeting with DWQ to discuss the necessary NPDES permit. In the interim, until the treatment

**POYNER SPRUILL LLP**  
ATTORNEYS-AT-LAW

Bruce Nicholson  
June 2, 2008  
Page 2

system and discharge permit are in place, the groundwater will be discharged to Wilmington's sanitary sewer system pursuant to Permit No. N123, a copy of which is enclosed.

I would appreciate your letting me know as soon as possible whether River Ventures should move ahead with this plan. Upon your approval and after meeting with DWQ, we will proceed with a more detailed plan, which we will send to you along with any additional groundwater test results that are generated. Please let me know whether you want to be involved in the meeting with DWQ, which is scheduled for June 12, 2008 at 3:30 at the Archdale Building.

Please contact me if you have questions or need additional information.

Sincerely,



H. Glenn Dunn

HGD:kam  
Enclosures

cc: Judd Hartman  
Don Anderson



December 4, 2008

Mr. H. Glenn Dunn

Poyner & Spruill, LLP  
P.O. Box 10096  
Raleigh, North Carolina 27605-0096

**Subject: Request to Withdraw Groundwater**  
PPD Headquarters Project  
Wilmington, New Hanover County  
Brownfields Project Number 08027-04-65

Dear Mr. Dunn:

On June 2, 2008, the Brownfields Program received your request, on behalf of River Ventures, LLC, for the withdrawal of groundwater at the referenced site. The request indicates that River Ventures, LLC is pursuing a NPDES permit for the disposal of the groundwater. The request also indicates that until the treatment system and discharge permit are in place, the groundwater will be discharged to Wilmington's sanitary sewer system pursuant to Permit No. N123.

The Brownfields Program approves the withdrawal of groundwater at the site provided that the groundwater is discharged either to the sanitary sewer in accordance with Permit No. N123, or in accordance with requirements specified in the finalized NPDES permit.

If you have additional questions, please feel free to contact me by telephone at 910-796-7408 or by email at [samuel.watson@ncdenr.net](mailto:samuel.watson@ncdenr.net).

Sincerely,

Samuel P. Watson, P.G.  
Brownfields Project Manager  
Division of Waste Management

cc: Project File

## Permit To Discharge Wastewater Under the Industrial Pretreatment Program

In compliance with the Cape Fear Public Utility Authority's Sewer Use Ordinance and Industrial Pretreatment Program, North Carolina General Statute 143-215.1, 162A, and applicable federal categorical pretreatment regulations, and other lawful standards and regulations promulgated and adopted by the North Carolina Environmental Management Commission and the Cape Fear Public Utility Authority (CFPUA),

### **Pharmaceutical Product Development, Inc. (a.k.a. PPD, Inc.)**

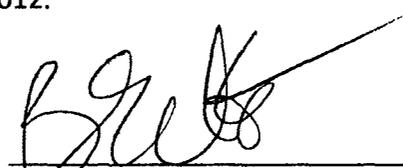
is hereby authorized to discharge stormwater and groundwater collected at the PPD, Inc. parking deck located at

**929 North Front Street  
Wilmington, North Carolina 28401  
New Hanover County**

into the Cape Fear Public Utility Authority's sanitary sewer system, James A. Loughlin Wastewater Treatment Plant (NPDES Permit NC0023965), in accordance with effluent limitations, monitoring requirements, and all other conditions set forth in Parts I, II, and III of this Permit.

This permit will become effective on February 1, 2012. This permit and the authorization to discharge shall expire at midnight January 31, 2017.

Signed this the January 23, 2012.

  
\_\_\_\_\_  
Signature

By Authority of the Cape Fear Public Utility Authority

## PART I Specific Conditions

### 1. Discharge Permit Basic Information

- |  |                                    |
|--|------------------------------------|
| a. Control Authority:                    | Cape Fear Public Utility Authority |
| b. Receiving Wastewater Treatment Plant: | James A. Loughlin WWTP             |
| c. NPDES Permit:                         | NC0023965                          |
| d. Industrial Discharge Permit Number:   | N123                               |
| e. Federal Category:                     | Not Applicable                     |
| f. Permit Effective Date:                | February 1, 2012                   |
| g. Permit Expiration Date:               | January 31, 2017                   |

### 2. Discharge Permit History

The PPD, Inc. facility is located on a re-developed Brownfield. During construction it was observed that groundwater and stormwater leaving the site carried elevated pollutants that could adversely impact surface waters or the POTW. PPD's permit was originally issued by the City of Wilmington in May 2007. CFPUA reissued the permit in June 2008. PPD was issued a NPDES permit issued by NC DWQ. PPD has indicated that the cost of constructing a treatment system to meet NPDES limitations is not feasible. CFPUA reissued the permit with modified limits and monitoring requirements effective February 1, 2012.

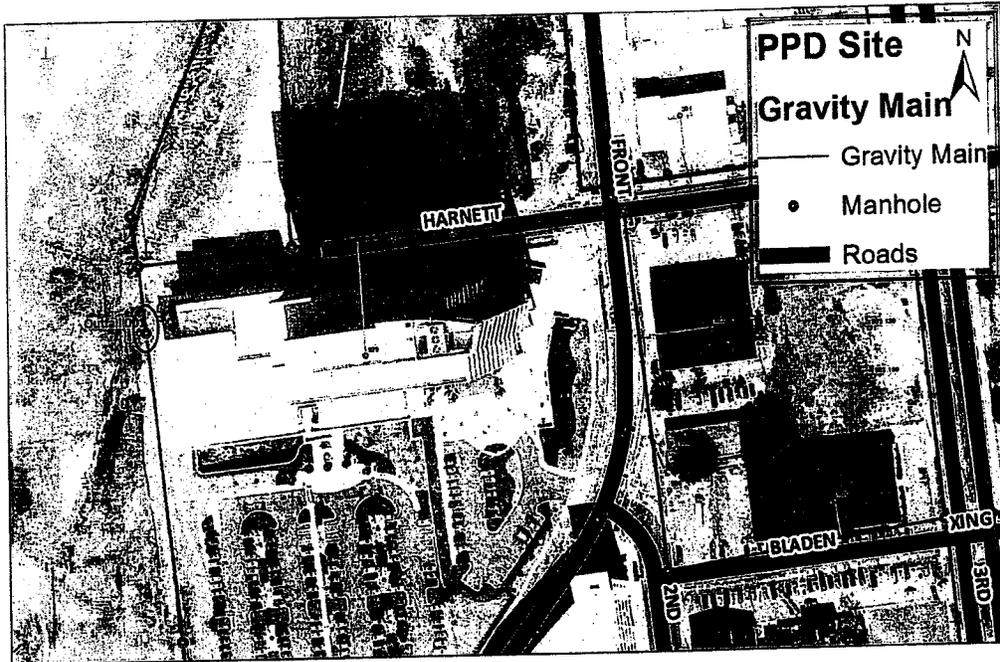
### 3. Authorization Statement

- a. If required to meet final effluent limitations and after receiving Authorization to Construct (A to C) from the CFPUA, the permittee will construct and operate additional pretreatment units as needed to meet final effluent limitations.
- b. The discharge flow rate shall not exceed 13.9 gpm.
- c. The permittee shall employ appropriate controls and necessary appurtenances to ensure that there is no accidental discharge of water that has not been approved for discharge.
- d. The permittee shall ensure adequate storage and have properly sized and restricted pumps to ensure that both concentrations and flows are uniform and within limits.
- e. This permit is limited to the groundwater and rainwater that is collecting in the parking garage and courtyard only. No other groundwater sources located on the PPD, Inc. site are allowed to be piped or routed to this permitted outfall and discharged into the sanitary sewer system.
- f. This permit and the flow capacity allocated to the discharge are revocable. This permit does not guarantee sewer capacity for contaminated stormwater or groundwater collected at PPD or that CFPUA will issue future permits.

### 4. Description of Permitted Discharge

Groundwater and rainwater that is collecting in the parking garage and courtyard of the PPD, Inc. building may be discharged through discharge pipe #01 after it has met the permit limitations.

**5. Outfall and Monitoring Locations**



**6. Production Records**  
Not applicable

## 7. Monitoring Limits and Frequency

The following limits and monitoring requirements shall be in effect until the permit expires:

Receiving POTW Name: James A. Loughlin  
 Receiving POTW NPDES #: NC0023965  
 Permit Effective Date: 1-Feb-2012  
 Permit Expiration Date: 31-Jan-2017

IU Name: PPD, Inc.  
 IU Permit #: N123  
 Pipe #: 01  
 Federal Category: NA

	Parameter (Pollutant)	Daily Maximum Limit	Monthly Average Limit	Unit	Basis	Monitoring Frequency		Sample Collection Method	Required Laboratory Detection Level
						Industry	Authority		
1	Flow	0.020000		MGD	Local	Daily		Meter	
2	pH	*		s.u.	Local	1 / month		G	
3	BOD	monitor		mg/L		1 / 6 month		G	2
4	TSS	monitor		mg/L	Local	1 / 6 month		G	2.5
5	Temperature	49.0		C	Local	1 / month		G	
6	Aluminum	monitor		mg/L		1 / 6 month		G	0.01
7	Ammonia (NH3-N)	200		mg/L	Local	1 / month		G	1
8	Arsenic	0.20		mg/L	Local	1 / month		G	0.003
9	Barium	monitor		mg/L		1 / 6 month		G	0.01
10	CBOD	not applicable							
11	Cadmium	0.02		mg/L	Local	1 / month		G	0.002
12	Chloride	monitor		mg/L		1 / month		G	1
13	Chromium (Total)	0.02		mg/L	Local	1 / month		G	0.005
14	COD	monitor		mg/L		1 / 6 month		G	10.0
15	Copper	0.6		mg/L	Local	1 / month		G	0.002
16	Cyanide	monitor		mg/L		1 / 6 month		G	0.01
17	Iron	monitor		mg/L		1 / 6 month		G	0.01
18	Lead	monitor		mg/L		1 / 6 month		G	0.005
19	Mercury	monitor		mg/L		1 / 6 month		G	0.0002
20	Nickel	monitor		mg/L		1 / 6 month		G	0.01
21	Oil & Grease	monitor		mg/L		1 / 6 month		G	5
22	Phosphorus-Total	monitor		mg/L		1 / 6 month		G	0.05
23	Silver	monitor		mg/L		1 / 6 month		G	0.002
24	TKN	200		mg/L	Local	1 / month		G	0.1
25	Total Solids	1500		mg/L	Local	1 / month		G	10
26	Molybdenum	monitor		mg/L		1 / 6 month		G	0.1
27	Selenium	monitor		mg/L		1 / 6 month		G	0.01
28	Zinc	0.5		mg/L	Local	1 / month		G	0.01
29	Fluoride	monitor		mg/L		1 / 6 month		G	0.1
30	Conductivity	monitor		µS		1 / month		G	

\* pH shall not be less than 7.0 nor greater than 10.0

## **PART II**

### **General Conditions**

#### **1. Representative Sampling**

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and approval by the CFPUA.

#### **2. Reporting**

- a. Monitoring results and daily flow volumes obtained by the permittee shall be reported on forms approved by the CFPUA, postmarked no later than the tenth day of the month following the month in which the samples were taken. If no discharge occurs during a reporting period (herein defined as each calendar month) in which a sampling event was to have occurred, a form with the phrase "no discharge" shall be submitted. Copies of these and all other reports required herein shall be submitted to the CFPUA and shall be sent to the following address:

Community Compliance Assistance Supervisor  
Cape Fear Public Utility Authority  
235 Government Center Dr.  
Wilmington, NC 28403

- b. If the sampling performed by the permittee indicates a violation, the permittee shall notify the CFPUA as soon possible but no later than 4:00 pm of the next business day after becoming aware of the violation. The permittee shall also repeat the sampling and analysis and submit the results of the repeat analysis to the CFPUA within 30 days of becoming aware of the violation.

#### **3. Test Procedures**

- a. Pollutant analyses shall be performed by a North Carolina Division of Water Quality Certified Laboratory certified in the analysis of the particular pollutant in wastewater.
- b. Test procedures for the analysis of pollutants shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto unless specified otherwise in the monitoring conditions of this permit.

#### **4. Additional Monitoring by Permittee**

If the permittee monitors any pollutant at the location designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such

monitoring shall be submitted to the CFPWA. The CFPWA may require more frequent monitoring or the monitoring of other pollutants not required in this permit by written notification.

**5. Duty to Comply**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the CFPWA Sewer Use Ordinance and is grounds for possible enforcement action.

**6. Duty to Mitigate - Prevention of Adverse Impact**

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health, the Publicly Owned Treatment Works (POTW), the waters receiving the POTW's discharge, or the environment.

**7. Facilities Operation, Bypass**

The permittee shall at all times maintain in good working order and operate as efficiently as possible, all control facilities or systems installed and used by the permittee to achieve compliance with the terms and conditions of this permit. Bypass of treatment facilities is prohibited except when approved in advance by the CFPWA. Bypass approval shall be given only when such bypass is in compliance with 40 CFR 403.17.

**8. Removed Substances**

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutants from such materials from entering the CFPWA sewer system. The permittee is responsible for assuring its compliance with any requirements regarding the generation, treatment, storage, and/or disposal of hazardous waste as defined under the Federal Resource Conservation and Recovery Act.

**9. Upset Conditions**

An *upset* means an exceptional incident in which there is an unintentional and temporary noncompliance with the effluent limitations of this permit because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operations. An upset may constitute an affirmative defense for actions brought for the noncompliance. The permittee has the burden of proof to provide evidence and demonstrate that none of the factors specifically listed above were responsible for the noncompliance.

**10. Right of Entry**

The permittee shall allow the staff of the State of North Carolina Department of Environment and Natural Resources, Division of Water Quality, the Regional Administrator of the Environmental

Protection Agency, the CFPUA and/or their authorized representatives, upon the presentation of credentials:

- a. To enter upon the permittee's premises where a real or potential discharge is located or in which records are required to be kept under the terms and conditions of this permit and
- b. at reasonable times to have access to records and the ability to copy records required to be kept under the terms and conditions of this permit, the ability to inspect any monitoring equipment or monitoring method required in this permit, and the ability to sample any discharge of pollutants.

#### **11. Availability of Records and Reports**

- a. The permittee shall retain records of all monitoring information, including all calibration and maintenance records as well as copies of reports and information used to complete the application for this permit for at least three years. All records that pertain to matters that are subject to any type of enforcement action shall be retained and preserved by the permittee until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.
- b. Except for data determined to be confidential under the Sewer Use Ordinance, all reports prepared in accordance with terms of this permit shall be available for public inspection at the CFPUA. As required by the Sewer Use Ordinance, effluent data shall not be considered confidential.

#### **12. Duty to Provide Information**

The permittee shall furnish to the CFPUA Chief Executive Officer (CEO) or designee, within a reasonable time, any information which the CEO, designee, or the Division of Water Quality may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish, upon request, copies of records required to be kept by this permit.

#### **13. Signatory Requirements**

All reports or information submitted pursuant to the requirements of this permit must be signed and certified by the Authorized Representative as defined under the CFPUA Sewer Use Ordinance. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to the CFPUA prior to or together with any reports to be signed by an authorized representative.

#### **14. Toxic Pollutants**

If a toxic effluent standard or prohibition, including any schedule of compliance specified in such effluent standard or prohibition, is established under Section 307(a) of the Federal Clean Water Act for

a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit may be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

**15. Civil and Criminal Liability**

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

**16. Federal and/or State Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Federal and/or State law or regulation.

**17. Penalties**

- a. The Sewer Use Ordinance of the Cape Fear Public Utility Authority states that any person who violates a permit condition is subject to a civil penalty not to exceed \$25,000 dollars per day of such violation.
- b. According to state law (NCGS 143-215.6B), under certain circumstances it is a crime to violate terms, conditions, or requirements of pretreatment permits. It is a crime to knowingly make any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or other reports of compliance or noncompliance. These crimes are enforced at the prosecutorial discretion of the local District Attorney.

**18. Need to Halt or Reduce not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of the permit.

**19. Transferability**

This permit shall not be reassigned, transferred or sold to a new owner, new user, different premises, or a new or changed operation without approval of the CFPUA.

**20. Property Rights**

This permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

**21. Severability**

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

**22. Permit Modification, Revocation, Termination**

This permit may be modified, revoked and reissued or terminated with cause in accordance to the requirements of the CFPWA Sewer Use Ordinance and North Carolina General Statute or implementing regulations.

**23. Re-Application for Permit Renewal**

The permittee is responsible for filing an application for reissuance of this permit at least 180 days prior to its expiration date.

**24. Dilution Prohibition**

The permittee shall not increase the use of potable or process water or in any other way attempt to dilute the discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this permit.

**25. Reports of Changed Conditions**

The permittee shall give notice to the CFPWA of any planned significant changes to the permittee's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change. The permittee shall not begin the changes until receiving written approval from the CFPWA.

**26. Construction**

No construction of pretreatment facilities or additions thereto shall begin until final plans and specifications have been submitted to the CFPWA and written approval and an authorization to construct (A to C) have been issued.

**27. Reopener**

The permit shall be modified or, alternatively, revoked and reissued to comply with any applicable effluent standard or limitation for the control of any pollutant shown to contribute to toxicity of the POTW effluent or any pollutant that is otherwise limited by the POTW discharge permit. The permit as modified or reissued under this paragraph may also contain any other requirements of State or Federal pretreatment regulations applicable.

## **28. Categorical Reopener**

This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 302(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

- a. contains different conditions or is otherwise more stringent than any effluent limitation in this permit;
- b. or controls any pollutant not limited in this permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

## **29. General Prohibitive Standards**

The permittee shall comply with the general prohibitive discharge standards in 40 CFR 403.5 (a) and (b) of the Federal pretreatment regulations.

## **30. Potential Problems**

- a. The permittee shall provide protection from accidental or slug discharges of prohibited materials and other substances regulated by this permit. The permittee shall also notify the CFPUA of any changes at its facility affecting the potential for spills and other accidental discharges, discharges of a non-routine, discharges of episodic nature, a non-customary batch discharge, or a slug load as defined in the Sewer Use Ordinance.
- b. The permittee shall immediately notify the CFPUA of all discharges that could cause problems to the POTW including any slug loadings as defined in the Sewer Use Ordinance.
  - i. The notification shall be made by phoning (910) 599-7575.
  - ii. The notification shall inform the CFPUA immediately upon the first awareness of the commencement of the discharge.
  - iii. The notification shall include location of the discharge, type of waste, concentration and volume if known and corrective actions taken by the permittee.
  - iv. A written follow-up report shall be filed by the permittee within five (5) days, unless waived by the CFPUA.

## **31. Fees**

- a. The permittee shall pay an annual fee each year in accordance with the Cape Fear Public Utility Authority Rates and Fee Schedule. The annual fee shall be due June 30<sup>th</sup> of each year.
- b. The permittee shall pay surcharges in accordance with the CFPUA Rates and Fee Schedule.
- c. Cape Fear Public Utility Authority Rates and Fee Schedule is available for viewing at the CFPUA web site ([www.cfpua.org](http://www.cfpua.org)) or by appointment at 628 Groundwater Way or 235 Government Center Dr.