# State Pollutant Discharge Elimination System (SPDES) DISCHARGE PERMIT

| | | | | | |
|---|---|---|---|---|---|
| SIC Code: | **7997** | NAICS Code: | **713990** | SPDES Number: | **NY 0305251** |
| Discharge Class (CL): | **04** | | | DEC Number: | **4-1946-00007/00021** |
| Toxic Class (TX): | **N** | | | Effective Date (EDP): | **EDP** |
| Major-Sub Drainage Basin: | **12 - 02** | | | Expiration Date (ExDP): | **EDP + 10 years** |
| Water Index Number: | **Groundwater** | Item No.: | **GW** | Modification Dates (EDPM): | **-** |
| Compact Area: | **-** | | | | |

This SPDES permit is issued in compliance with Title 8 of Article 17 of the Environmental Conservation Law of New York State and in compliance with the Clean Water Act, as amended, (33 U.S.C. '1251 et.seq.)

| PERMITTEE NAME AND ADDRESS | | | | | |
|---|---|---|---|---|---|
| Name: | **Windham Mountain Partners, LLC** | Attention: | **Peter Calabria**<br>**Chief Financial Officer** | | |
| Street: | **19 Resort Drive** | | | | |
| City: | **Windham** | State: | **NY** | Zip Code: | **12439** |
| Email: | **pcalabria@windhammountainclub.com** | Phone: | **(518) 734-4300** | | |

is authorized to discharge from the facility described below:

| FACILITY NAME, ADDRESS, AND PRIMARY OUTFALL | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Name: | **Windham Mountain Club – Adventure Center** | | | | | | | | | | | | | |
| Address / Location: | **360 County Route 12 (South Street)** | | | | | | | | | | County: | **Greene** | | |
| City: | **Windham** | | | | | | State: | **NY** | | | Zip Code: | **12439** | | |
| Facility Location: | | Latitude: | **42** | ° | **18** | ’ | **24** | ” N | & Longitude: | **74** | ° | **15** | ’ | **41** | ” W |
| Primary Outfall No.: | **001** | Latitude: | **42** | ° | **18** | ’ | **24** | ” N | & Longitude: | **74** | ° | **15** | ’ | **41** | ” W |
| Wastewater Description: | **Pool & Spa Water** | Receiving Water: | **Groundwater** | | | | NAICS: | **713990** | Class: | GA | | Standard: | GA | |

in accordance with: effluent limitations; monitoring and reporting requirements; other provisions and conditions set forth in this permit; and 6 NYCRR Part 750-1 and 750-2.

This permit and the authorization to discharge shall expire on midnight of the expiration date shown above and the permittee shall not discharge after the expiration date unless this permit has been renewed or extended pursuant to law. To be authorized to discharge beyond the expiration date, the permittee shall apply for permit renewal not less than 180 days prior to the expiration date shown above.

DISTRIBUTION:
BWP Permit Coordinator (permit.coordinator@dec.ny.gov)
BWP Permit Writer
RWE
RPA

| | |
|---|---|
| Permit Administrator: | |
| Address: | 1130 North Westcott Road<br>Schenectady, NY 12306 |
| | |
| Signature | Date |

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# DEFINITIONS

| TERM | DEFINITION |
|---|---|
| 7-Day Geo Mean | The highest allowable geometric mean of daily discharges over a calendar week. |
| 7-Day Average | The average of all daily discharges for each 7-days in the monitoring period. The sample measurement is the highest of the 7-day averages calculated for the monitoring period. |
| 12-Month Rolling Average (12 MRA) | The current monthly value of a parameter, plus the sum of the monthly values over the previous 11 months for that parameter, divided by the number of months for which samples were collected in the 12-month period. |
| 30-Day Geometric Mean | The highest allowable geometric mean of daily discharges over a calendar month, calculated as the antilog of: the sum of the log of each of the daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. |
| Action Level | Action level means a monitoring requirement characterized by a numerical value that, when exceeded, triggers additional permittee actions and department review to determine if numerical effluent limitations should be imposed. |
| Compliance Level / Minimum Level | A compliance level is an effluent limitation. A compliance level is given when the water quality evaluation specifies a Water Quality Based Effluent Limit (WQBEL) below the Minimum Level. The compliance level shall be set at the Minimum Level (ML) for the most sensitive analytical method as given in 40 CFR Part 136, or otherwise accepted by the DEC. |
| Daily Discharge | The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for the purposes of sampling. For pollutants expressed in units of mass, the 'daily discharge' is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the 'daily discharge' is calculated as the average measurement of the pollutant over the day. |
| Daily Maximum | The highest allowable Daily Discharge. |
| Daily Minimum | The lowest allowable Daily Discharge. |
| Effective Date of Permit (EDP or EDPM) | The date this permit is in effect. |
| Effluent Limitations | Effluent limitation means any restriction on quantities, quality, rates and concentrations of chemical, physical, biological, and other constituents of effluents that are discharged into waters of the state. |
| Expiration Date of Permit (ExDP) | The date this permit is no longer in effect. |
| Instantaneous Maximum | The maximum level that may not be exceeded at any instant in time. |
| Instantaneous Minimum | The minimum level that must be maintained at all instants in time. |
| Monthly Average | The highest allowable average of daily discharges over a calendar month, calculated as the sum of each of the daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. |
| Outfall | The terminus of a sewer system, or the point of emergence of any waterborne sewage, industrial waste or other wastes or the effluent therefrom, into the waters of the State. |
| Range | The minimum and maximum instantaneous measurements for the reporting period must remain between the two values shown. |
| Receiving Water | The classified waters of the state to which the listed outfall discharges. |
| Sample Frequency / Sample Type / Units | See DEC's "DMR Manual for Completing the Discharge Monitoring Report for the SPDES" for information on sample frequency, type and units. |

# PERMIT LIMITS, LEVELS AND MONITORING

| OUTFALL | DESCRIPTION | RECEIVING WATER | EFFECTIVE | EXPIRING |
|---|---|---|---|---|
| 001 | Swimming Pool Water | Groundwater | **EDP** | **ExDP** |

| PARAMETER | EFFLUENT LIMITATION | | | | | MONITORING REQUIREMENTS | | | | FN |
|---|---|---|---|---|---|---|---|---|---|---|
| | Type | Limit | Units | Limit | Units | Sample Frequency | Sample Type | Location Inf. | Location Eff. | |
| Flow | Daily Maximum | Monitor | gpd | | | Monthly | Estimate | | X | 1 |
| Flow | Annual Average | Monitor | gpd | | | 1/year | Estimate | | X | 2 |
| pH | Daily Minimum | 6.5 | SU | | | 4/year | Grab | | X | 3 |
| | Daily Maximum | 8.5 | SU | | | | | | | 3 |

**FOOTNOTES:**

1. The highest daily flow for each month is to be reported on the annual report. Flows may be estimated using pool/spa volumes and discharge times or by other means acceptable to DEC.

2. The annual average flow for each calendar year is to be calculated by dividing the total number of gallons discharged during the year by the total number of days of discharge. Report the annual average flow on the annual report.

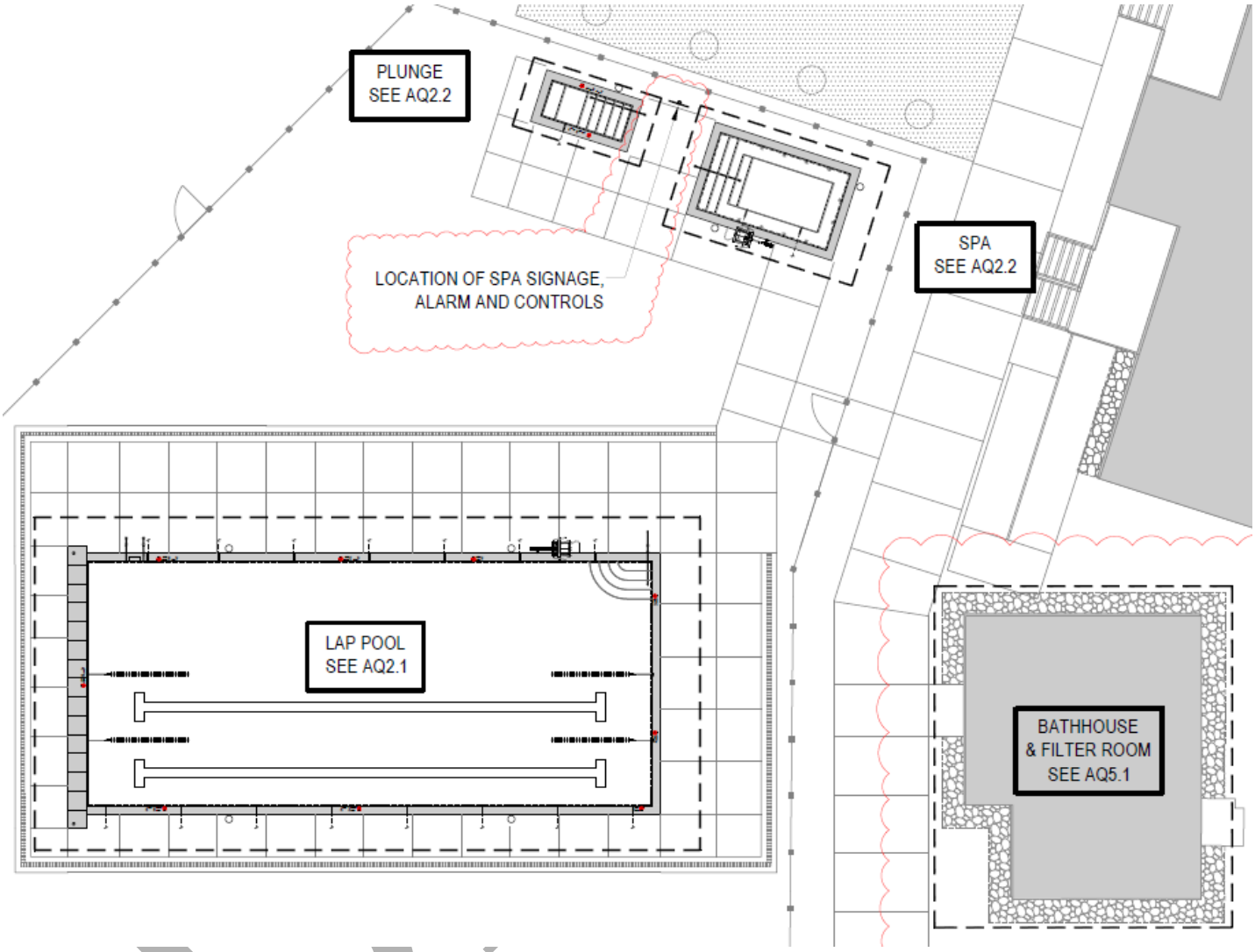
3. Monitor pH in plunge pool and hot tub water prior to discharge once per calendar quarter (Q1 = Jan 1 – Mar 31; Q2 = Apr 1 – Jun 30; Q3 = Jul 1 – Sep 30; Q4 = Oct 1 – Dec 31). Monitor pH in lap pool water once prior to each discharge. Report all data on the annual report.

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# MONITORING LOCATIONS

The permittee shall take samples and measurements, to comply with the monitoring requirements specified in this permit, at the locations(s) specified below:

Effluent: From plunge pool, spa pool, or lap pool prior to discharge



# GENERAL REQUIREMENTS

A. The regulations in 6 NYCRR Part 750 are hereby incorporated by reference and the conditions are enforceable requirements under this permit. The permittee shall comply with all requirements set forth in this permit and with all the applicable requirements of 6 NYCRR Part 750 incorporated into this permit by reference, including but not limited to the regulations in paragraphs B through H as follows:

B. General Conditions

| | | |
|---|---|---|
| 1. | Duty to comply | 6 NYCRR 750-2.1(e) & 2.4 |
| 2. | Duty to reapply | 6 NYCRR 750-1.16(a) |
| 3. | Need to halt or reduce activity not a defense | 6 NYCRR 750-2.1(g) |
| 4. | Duty to mitigate | 6 NYCRR 750-2.7(f) |
| 5. | Permit actions | 6 NYCRR 750-1.1(c), 1.18, 1.20 & 2.1(h) |
| 6. | Property rights | 6 NYCRR 750-2.2(b) |
| 7. | Duty to provide information | 6 NYCRR 750-2.1(i) |
| 8. | Inspection and entry | 6 NYCRR 750-2.1(a) & 2.3 |

C. Operation and Maintenance

| | | |
|---|---|---|
| 1. | Proper Operation & Maintenance | 6 NYCRR 750-2.8 |
| 2. | Bypass | 6 NYCRR 750-1.2(a)(17), 2.8(b) & 2.7 |
| 3. | Upset | 6 NYCRR 750-1.2(a)(98) & 2.8(c) |

D. Monitoring and Records

| | | |
|---|---|---|
| 1. | Monitoring and records | 6 NYCRR 750-2.5(a)(2), 2.5(a)(6), 2.5(c)(1), 2.5(c)(2), & 2.5(d) |
| 2. | Signatory requirements | 6 NYCRR 750-1.8 & 2.5(b) |

E. Reporting Requirements

| | | |
|---|---|---|
| 1. | Reporting requirements for non-POTWs | 6 NYCRR 750-2.5, 2.6, 2.7, &1.17 |
| 2. | Anticipated noncompliance | 6 NYCRR 750-2.7(a) |
| 3. | Transfers | 6 NYCRR 750-1.17 |
| 4. | Monitoring reports | 6 NYCRR 750-2.5(e) |
| 5. | Compliance schedules | 6 NYCRR 750-1.14(d) |
| 6. | 24-hour reporting | 6 NYCRR 750-2.7(c) & (d) |
| 7. | Other noncompliance | 6 NYCRR 750-2.7(e) |
| 8. | Other information | 6 NYCRR 750-2.1(f) |

F. Sludge Management
The permittee shall comply with all applicable requirements of 6 NYCRR Part 360 series.

G. SPDES Permit Program Fee
The permittee shall pay to the DEC an annual SPDES permit program fee within 30 days of the date of the first invoice, unless otherwise directed by the DEC, and shall comply with all applicable requirements of ECL 72-0602 and 6 NYCRR Parts 480, 481 and 485. Note that if there is inconsistency between the fees specified in ECL 72-0602 and 6 NYCRR Part 485, the ECL 72-0602 fees govern.

H. Water Treatment Chemicals (WTCs)
New or increased use and discharge of a WTC requires prior DEC review and authorization. At a minimum, the permittee must notify the DEC in writing of its intent to change WTC use by submitting a completed *WTC Notification Form* for each proposed WTC. The DEC will review that submittal and determine if a SPDES permit modification is necessary or whether WTC review and authorization may proceed under the current permit. The use and discharge of a WTC shall not proceed without prior authorization from the DEC. Examples of WTCs include biocides, coagulants, conditioners, corrosion inhibitors, defoamers, deposit control agents, flocculants, scale inhibitors, sequestrants, and settling aids.

1. WTC use shall not exceed the rate explicitly authorized by this permit or otherwise authorized by the DEC.
2. The permittee shall maintain a logbook of all WTC use, noting for each WTC the date, time, exact location, and amount of each dosage, and, the name of the individual applying or measuring the chemical. The logbook must also document that adequate process controls are in place to ensure excessive levels of WTCs are not used.
3. The permittee shall submit a completed WTC Annual Report Form each year that they use and discharge WTCs. This form shall be submitted in electronic format and attached to either the December DMR or the annual monitoring report required below. The *WTC Notification Form and WTC Annual Report Form* are available from the DEC's website at: SPDES Permitting of Water Treatment Chemicals.

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# RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS

A. The permittee shall retain the monitoring information required by this permit for a period of at least five years from the date of the sampling.

B. Additional information required to be submitted by this permit shall be summarized and reported to the Bureau of Water Permits and Regional Water Engineer at the following addresses:

Department of Environmental Conservation
Division of Water, Bureau of Water Permits
625 Broadway, Albany, New York 12233-3505 Phone: (518) 402-8111

Department of Environmental Conservation
Regional Water Engineer, Region 4
1130 North Westcott Road, Schenectady, New York, 12306-2014 Phone: (518) 357-2045
(or electronically at r4.dow@dec.ny.gov)

C. **Annual SPDES Monitoring Reports: An annual report shall be submitted to DEC by February 1st each year.** The report shall summarize information for January to December of the previous year and shall be submitted electronically, or in hardcopy format, utilizing the SPDES Annual Report Form available on DEC's website.

The Annual Report shall be submitted electronically to the Regional Water Engineer at r4.dow@dec.ny.gov.

**D. Schedule of Additional Submittals:**

The permittee shall submit the following information to the Regional Water Engineer and to the Bureau of Water Permits, unless otherwise instructed:

| Outfall(s) | SCHEDULE OF ADDITIONAL SUBMITTALS - Required Action | Due Date |
|---|---|---|
| 001 | NOTIFICATION OF START DATE ("START-UP")<br>The permittee shall provide the Department with the proposed start date for the discharge. This date will be used to establish the start of compliance reporting. | 15 days prior to start-up |
| 001 | EMERGING CONTAMINANT SHORT-TERM MONITORING<br>The permittee shall collect a grab sample of water from the source of the SPDES permitted discharge (i.e., pool or spa water) and analyze it for Per-and Polyfluoroalkyl Substances (PFAS) utilizing EPA analytical method 1633 and 1,4-Dioxane (1,4-D) utilizing EPA Method 8270D SIM or 8270E SIM. The results shall be reported through the "Emerging Contaminants Survey for Industrial Facilities" found at: Emerging Contaminants In NY's Waters - NYSDEC.<br><br>Please use the link above to access the chain of custody template, monitoring template for laboratories, and monitoring template instructions for laboratories. For each month, please fill out the chain of custody template to reflect the required analytical sampling for each outfall using the correct sample naming convention (example provided in the form). The chain of custody, monitoring template, and monitoring template instructions should then be provided to the laboratory. The laboratory should complete the monitoring template, utilizing EQuIS EDD format, for each month of sampling. The completed chain of custody, monitoring template, and PDF laboratory reports should be submitted with the Emerging Contaminants Survey. | Within 6 months of start-up |

**Unless noted otherwise, the above actions are one-time requirements.**

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E. Monitoring and analysis shall be conducted using sufficiently sensitive test procedures approved under 40 CFR Part 136.

F. Calculations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

G. Unless otherwise specified, all information recorded on the DMRs shall be based upon measurements and sampling carried out during the most recently completed reporting period.

H. Any laboratory test or sample analysis required by this permit for which the State Commissioner of Health issues certificates of approval pursuant to section 502 of the Public Health Law shall be conducted by a laboratory which has been issued a certificate of approval. Inquiries regarding laboratory certification should be directed to the New York State Department of Health, Environmental Laboratory Accreditation Program.

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# SPDES Permit Fact Sheet
# Windham Mountain Partners, LLC
# Windham Mountain Club – Adventure Center
# NY0305251



# Overview

A new State Pollutant Discharge Elimination System (SPDES) permit has been drafted for the Windham Mountain Club – Adventure Center.

**This fact sheet summarizes the information used to determine the effluent limitations (limits) and other conditions contained in the permit. General background information including the regulatory basis for the effluent limitations and other conditions are in the Appendix linked throughout this fact sheet.**

# Administrative History

3/10/2026 The Windham Mountain Partners, LLC submitted a NY-2C permit application.

The Notice of Complete Application, published in the Environmental Notice Bulletin and newspapers, contains information on the public notice process.

# Facility Information

This facility is a sports and recreation club (SIC code 7997). Sanitary wastewater from the facility will be discharged via the publicly owned collection system to the Windham (T) Wastewater Treatment Plant (SPDES ID NY0262935).

The facility includes an aquatic center featuring three pools (a lap pool, a cold plunge, and hot tub [spa pool]). New York State Department of Health (DOH) regulations (10 NYCRR Part 6) require the three pools to drain to a "public sewer system or other approved disposal system." The DOH regulations also require the pools to be emptied and refilled periodically. The lap pool water will be changed once every five to ten years, and the two smaller pools must be emptied and refilled once every two weeks. The Town of Windham sewer use law prohibits the discharge of water directly from swimming pools and hot tubs into the town's collection system. Therefore, the facility proposes to discharge pool water to the on-site stormwater infiltration system.

The facility will discharge water from the aquatic facilities to groundwater via Outfall 001 as follows:

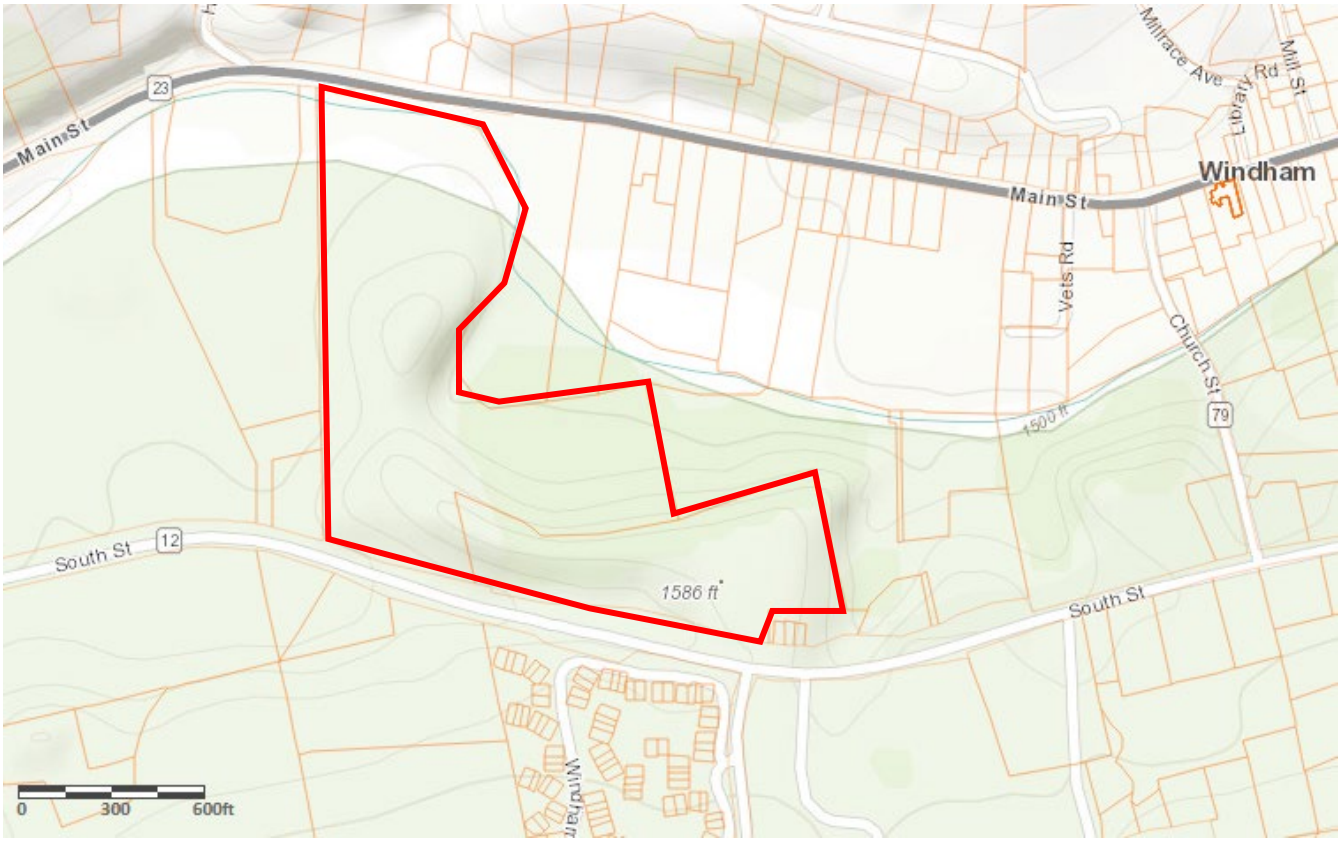
- Cold Plunge: 900 gallons every two weeks at five (5) gallons per minute (gpm) over a three-hour period;
- Hot Tub: 1,800 gallons every two weeks at five (5) gpm over a six-hour period; and
- Lap Pool: 46,800 gallons every five to ten years at 65 gpm over a 12-hour period.

The facility will use the following water treatment chemicals in the aquatic facilities:

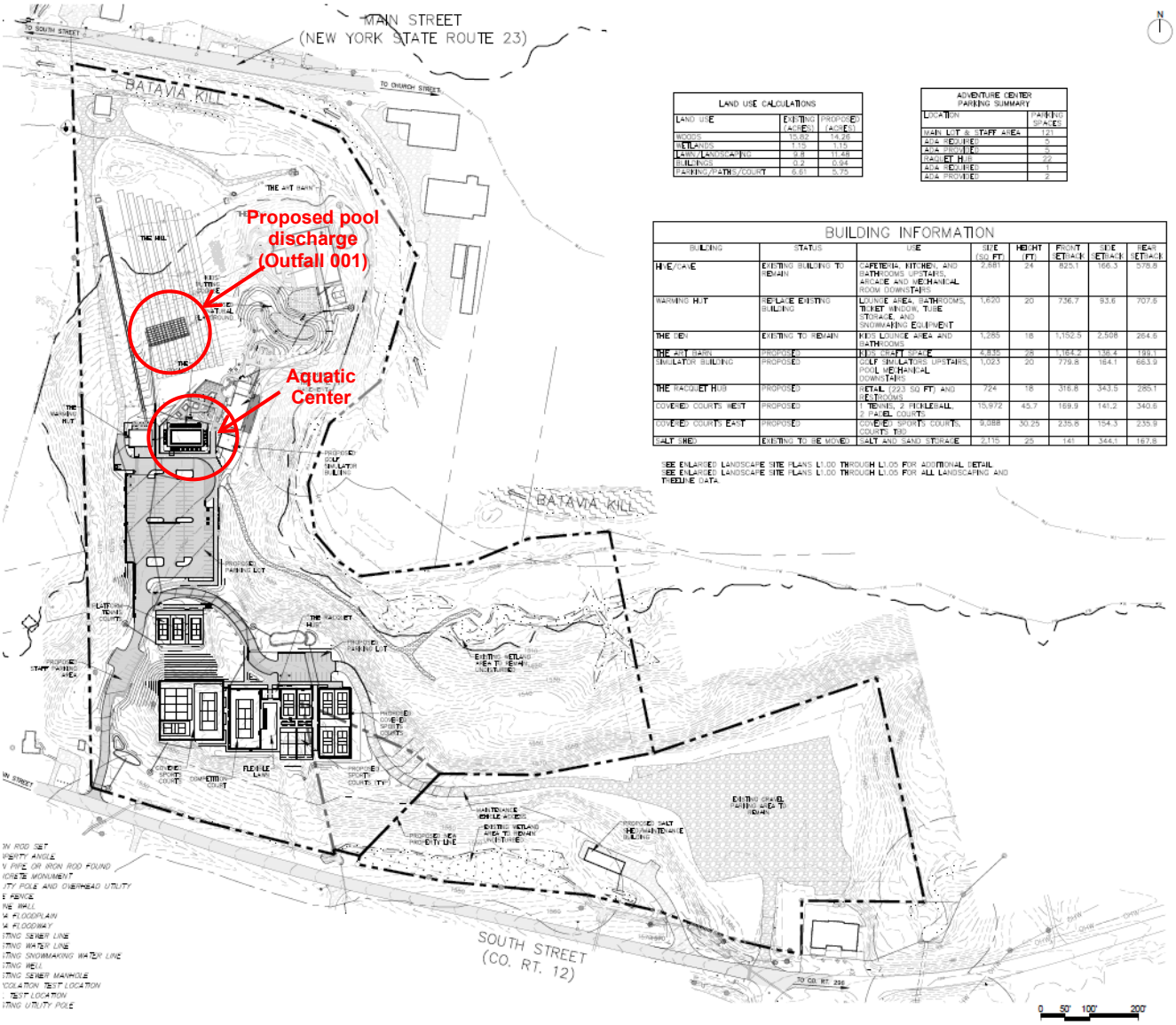
- Muriatic acid (a form of hydrochloric acid) to maintain the pH between 7.2 to 7.8; and
- Sodium hypochlorite to maintain a free chlorine concentration between 1.5 and 5 mg/L.

This treatment is needed to comply with DOH requirements.

## Site Overview

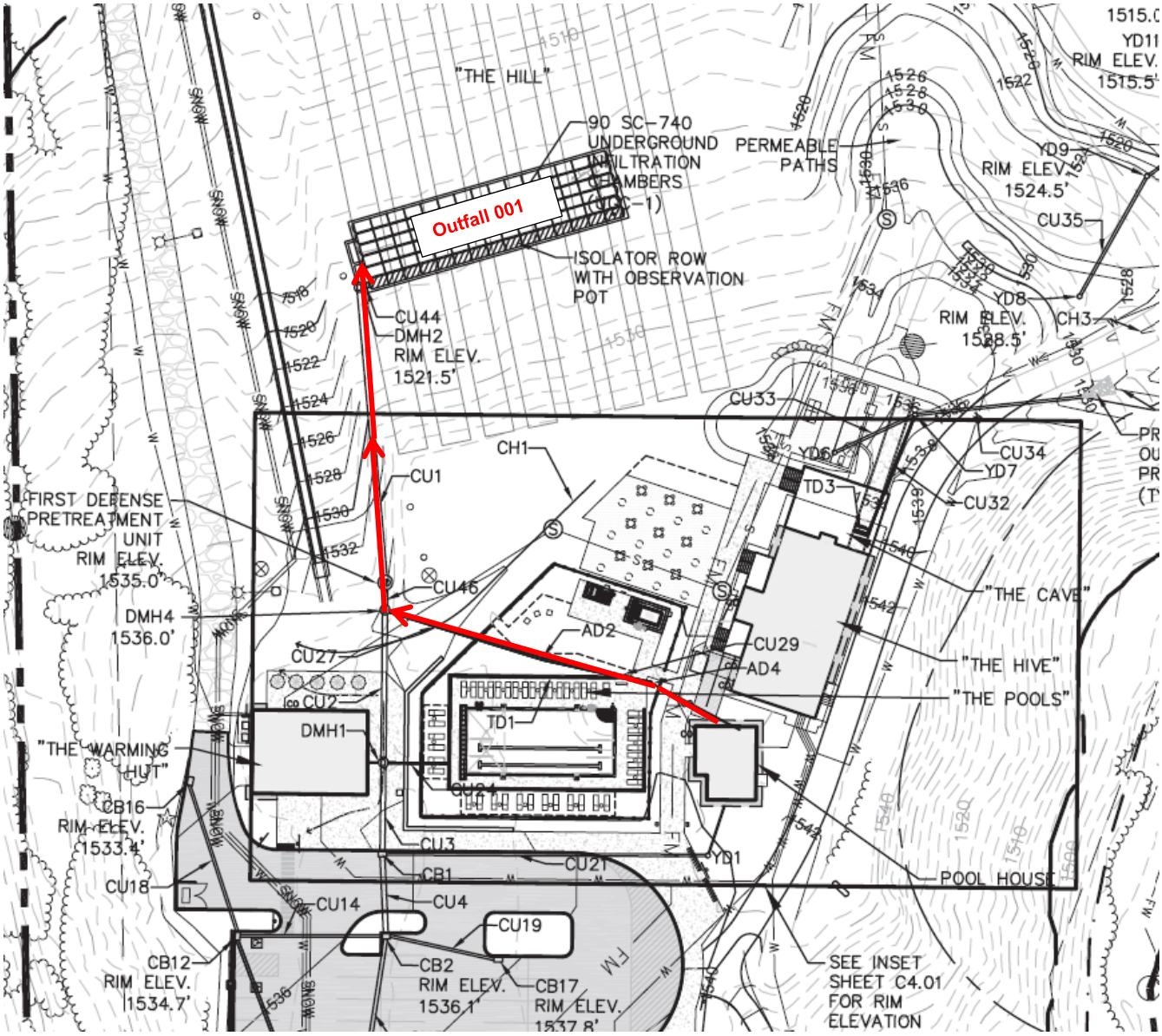



**Windham Mountain Club Adventure Center – site location.**
From DEC's Environmental Resource Mapper (https://gisservices.dec.ny.gov/gis/erm/) April 24, 2026




**Overall site plan**

From plan set titled *Windham Mountain Club Adventure Center* by Kaaterskill Associates, dated Oct. 11, 2024, revised Jan. 24, 2025.




**Pool/spa water discharge illustration**
From plan set titled *Windham Mountain Club Adventure Center* by Kaaterskill Associates, dated Oct. 11, 2024, revised Aug 29, 2025.

## Receiving Water Information

The facility proposes to discharge via the following outfalls:

| Outfall No. | SIC Code | Wastewater Type | Receiving Water |
|---|---|---|---|
| 001 | 7997 | Swimming pool, cold plunge, and hot tub water | Groundwater, Class GA |

See the Outfall and Receiving Water Summary Table and Appendix for additional information. Critical receiving water data are listed in the Pollutant Summary Table at the end of this fact sheet. Appendix Link

# Permit Requirements

The technology based effluent limitations (TBELs), water quality-based effluent limitations (WQBELs), Existing Effluent Quality and a discussion of the selected effluent limitation for each pollutant present in the discharge are provided in the Pollutant Summary Table.

## Antidegradation

The permit contains effluent limitations which ensure that the best usages of the receiving waters will be maintained. The Notice of Complete Application published in the Environmental Notice Bulletin contains information on the State Environmental Quality Review (SEQR)[1] determination.

## Emerging Contaminant Monitoring

Pursuant to 6 NYCRR 750-1.13(b), the permit includes a requirement to submit effluent sample monitoring results for Per-and Polyfluoroalkyl Substances (PFAS) and 1,4-Dioxane. The requirement is included in the permit because the discharge system had not been constructed at the time the SPDES permit was drafted and, therefore, the applicant was unable to provide emerging contaminant data.

DEC will review the monitoring results and pursuant to 6 NYCRR 750-2.1(i) may notify the permittee of the need for further monitoring to identify potential sources as specified in the Emerging Contaminants Investigation Checklist for Industrial Facilities to determine whether cause exists to modify the permit to incorporate a pollutant minimization program per 6 NYCRR 750-1.14(f).

Appendix Link

[1] As prescribed by 6 NYCRR Part 617

# OUTFALL AND RECEIVING WATER SUMMARY TABLE

| Outfall | Latitude | Longitude | Receiving Water Name | Water Class | Water Index No. / Priority Waterbody Listing (PWL) No. | Major / Sub Basin | Hardness (mg/L) | 1Q10 (CFS) | 7Q10 (CFS) | 30Q10 (CFS) | Critical Effluent Flow (gpd) | Dilution Ratio | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | A(A) | A(C) | HEW |
| 001 | 42° 28' 24" N | 74° 15' 41" W | Groundwater | GA | - | 12/02 | - | - | - | - | 46,800 | - | - | - |

# POLLUTANT SUMMARY TABLE

## Outfall 001

| **Outfall #** | 001 | **Description of Wastewater:** Swimming pool, cold plunge, and hot tub water<br>**Type of Treatment:** None | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Effluent Parameter | Units | Averaging Period | Existing Discharge Data | | | TBELs | | Water Quality Data & WQBELs | | | | | | ML | Basis for Permit Requirement |
| | | | Permit Limit | Existing Effluent Quality | # of Data Points Detects / Non-Detects | Limit | Basis | Ambient Bkgd. Conc. | Projected Instream Conc. | WQ Std. or GV | WQ Type | Calc. WQBEL | Basis | | |
| **General Notes:**. All applicable water quality standards were reviewed for development of the WQBELs. The standard and WQBEL shown below represent the most stringent. The permit limits applied as part of this permit review are bolded. | | | | | | | | | | | | | | | |
| Flow Rate | GPD | Daily Max | - | - Actual Average | 0 | **46,800** | Design Flow | No alterations that will impair the waters for their best usages. | | | | | 703.2 | - | Monitor |
| | GPD | Annual Avg | - | - Actual Average | 0 | **4,500** | Design Flow | No alterations that will impair the waters for their best usages. | | | | | 703.2 | - | Monitor |
| | Flow monitoring has been included for informational purposes. Annual average flow is to be calculated as the total volume of water discharged divided by the number of days of discharge. Annual average "TBEL" here is calculated based a single discharge of 46,800 gallons from pool and 26 discharges each of 1,800 gallons from hot tub and 900 gallons from cold plunge, divided by an assumed 26 total days of discharge. | | | | | | | | | | | | | | |
| pH | SU | Minimum | - | - Actual Min | 0 | 6.0 | 40 CFR 133.102 | - | - | 6.5 – 8.5 | Range | **6.5 - 8.5** | 703.3 | - | WQBEL |
| | | Maximum | - | - Actual Max | 0 | 9.0 | | | | | | | | | |
| | Consistent with TOGS 1.1.1, the effluent pH shall not be lower than 6.5 or the pH of the natural groundwater, whichever is lower, nor shall it be greater than 8.5 or the pH of the natural groundwater, whichever is greater. | | | | | | | | | | | | | | |

# Appendix: Regulatory and Technical Basis of Permit Authorizations

The Appendix is meant to supplement the fact sheet for multiple types of SPDES permits. **Portions of this Appendix are not applicable to this specific permit.**

## Regulatory References

The provisions of the permit are based largely upon 40 CFR 122 subpart C and 6 NYCRR Part 750 and include monitoring, recording, reporting, and compliance requirements, as well as general conditions applicable to all SPDES permits. Below are the most common citations for the requirements included in SPDES permits:

- Clean Water Act (CWA) 33 section USC 1251 to 1387
- Environmental Conservation Law (ECL) Articles 17 and 70
- Federal Regulations
  - 40 CFR, Chapter I, subchapters D, N, and O
- State environmental regulations
  - 6 NYCRR Part 621
  - 6 NYCRR Part 750
  - 6 NYCRR Parts 700 - 704 – Best use and other requirements applicable to water classes
  - 6 NYCRR Parts 800 – 941 - Classification of individual surface waters
- NYSDEC water program policy, referred to as Technical and Operational Guidance Series (TOGS)
- USEPA Office of Water Technical Support Document for Water Quality-based Toxics Control, March 1991, Appendix E

The following is a quick guide to the references used within the fact sheet:

| SPDES Permit Requirements | Regulatory Reference |
|---|---|
| Anti-backsliding | 6 NYCRR 750-1.10(c) and 750-1.10(d), CWA sections 402(o), 303(d)(4), ECL 17-0809, 40 CFR 122.44(*l*) |
| Best Management Practices (BMPS) for CSOs | 6 NYCRR 750-2.8(a)(2) |
| Environmental Benefits Permit Strategy (EBPS) | 6 NYCRR 750-1.18, NYS ECL 17-0817(4), TOGS 1.2.2 (revised January 25,2012) |
| Exceptions for Type I SSO Outfalls (bypass) | 6 NYCRR 750-2.8(b)(2), 40 CFR 122.41 |
| Mercury Multiple Discharge Variance | Division of Water Program Policy 1.3.10 (DOW 1.3.10) |
| Mixing Zone and Critical Water Information | TOGS 1.3.1 & Amendments |
| PCB Minimization Program | 40 CFR Part 132 Appendix F Procedure 8, 6 NYCRR 750-1.13(a) and 750-1.14(f), and TOGS 1.2.1 |
| Pollutant Minimization Program (PMP) | 6 NYCRR 750-1.13(a), 750-1.14(f), TOGS 1.2.1 |
| Schedules of Compliance | 6 NYCRR 750-1.14 |
| Sewage Pollution Right to Know (SPRTK) | NYS ECL 17-0826-a, 6 NYCRR 750-2.7 |
| State Administrative Procedure Act (SAPA) | State Administrative Procedure Act Section 401(2), 6 NYCRR 621.11(l) |
| State Environmental Quality Review (SEQR) | 6 NYCRR Part 617 |
| USEPA Effluent Limitation Guidelines (ELGs) | 40 CFR Parts 405-471 |
| USEPA National CSO Policy | 33 USC Section 1342(q) |
| Whole Effluent Toxicity (WET) Testing | TOGS 1.3.2 |
| General Provisions of a SPDES Permit Department Request for Additional Information | NYCRR 750-2.1(i) |

## Outfall and Receiving Water Information

## Existing Effluent Quality

The existing effluent quality is determined from a statistical evaluation of effluent data in accordance with TOGS 1.2.1 and the USEPA Office of Water, Technical Support Document for Water Quality-based Toxics Control, March 1991, Appendix E (TSD). The existing effluent quality is equal to the 95$^{th}$ (monthly average) and 99$^{th}$ (daily maximum) percentiles of the lognormal distribution of existing effluent data. When there are greater than three non-detects, a delta-lognormal distribution is assumed, and delta-lognormal calculations are used to determine the monthly average and daily maximum pollutant concentrations. Statistical calculations are not performed for parameters where there are less than ten data points. If additional data is needed, a monitoring requirement may

be specified either through routine monitoring or a short-term high intensity monitoring program. The Pollutant Summary Table identifies the number of sample data points available.

## Permit Requirements

### Basis for Effluent Limitations

Sections 101, 301, 304, 308, 401, 402, and 405 of the CWA and Titles 5, 7, and 8 of Article 17 ECL, as well as their implementing federal and state regulations, and related guidance, provide the basis for the effluent limitations and other conditions in the permit.

When conducting a full technical review of an existing permit, the previous effluent limitations form the basis for the next permit. Existing effluent quality is evaluated against the existing effluent limitations to determine if these should be continued, revised, or deleted. Generally, existing limitations are continued unless there are changed conditions at the facility, the facility demonstrates an ability to meet more stringent limitations, or in response to updated regulatory requirements. Pollutant monitoring data is also reviewed to determine the presence of additional contaminants that should be included in the permit based on a reasonable potential analysis to cause or contribute to a water quality standards violation.

### Anti-backsliding

Anti-backsliding requirements are specified in the CWA sections 402(o) and 303(d)(4), ECL 17-0809, and regulations at 40 CFR 122.44(*l*) and 6 NYCRR 750-1.10(c) and (d). Generally, the relaxation of effluent limitations in permits is prohibited unless one of the specified exceptions applies, which will be cited on a case-by-case basis in this fact sheet. Consistent with current case law[2] and USEPA interpretation[3] anti-backsliding requirements do not apply should a revision to the final effluent limitation take effect before the scheduled date of compliance for that final effluent limitation.

### Antidegradation Policy

New York State implements the antidegradation portion of the CWA based upon two documents: (1) Organization and Delegation Memorandum #85-40, “Water Quality Antidegradation Policy” (September 9, 1985); and, (2) TOGS 1.3.9, “Implementation of the NYSDEC Antidegradation Policy – Great Lakes Basin (Supplement to Antidegradation Policy dated September 9, 1985) (undated).” The permit for the facility contains effluent limitations which ensure that the existing best usage of the receiving waters will be maintained. To further support the antidegradation policy, SPDES applications have been reviewed in accordance with the State Environmental Quality Review Act (SEQR) as prescribed by 6 NYCRR Part 617.

### Effluent Limitations

In developing a permit, the DEC determines the technology-based effluent limitations (TBELs) and then evaluates the water quality expected to result from technology controls to determine if any exceedances of water quality criteria in the receiving water might result. If there is a reasonable potential for exceedances of water quality criteria to occur, water quality-based effluent limitations (WQBELs) are developed. A WQBEL is designed to ensure that the water quality standards of receiving waters are met. In general, the CWA requires that the effluent limitations for a particular pollutant are the more stringent of either the TBEL or WQBEL.

#### *Technology-based Effluent Limitations (TBELs) for Industrial Facilities*

A TBEL requires a minimum level of treatment for industrial point sources based on currently available treatment technologies or Best Management Practices (BMPs). CWA sections 301(b) and 402, ECL sections 17-0509, 17-0809 and 17-0811, and 6 NYCRR 750-1.11 require technology-based controls on effluents. TBELs are set based upon an evaluation of New Source Performance Standards (NSPS), Best Available Technology Economically Achievable (BAT), Best Conventional Pollutant Control Technology (BCT), Best Practicable Technology Currently Available (BPT), and Best Professional Judgment (BPJ).

[2] American Iron and Steel Institute v. Environmental Protection Agency, 115 F.3d 979, 993 n.6 (D.C. Cir. 1997)
[3] U.S. EPA, Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California; 65 Fed. Reg. 31682, 31704 (May 18, 2000); Proposed Water Quality Guidance for the Great Lakes System, 58 Fed. Reg. 20802, 20837 & 20981 (April 16, 1993)

*USEPA Effluent Limitation Guidelines (ELGs) Applicable to Facility*

In many cases, BPT, BCT, BAT and NSPS limitations are based on effluent guidelines developed by USEPA for specific industries, as promulgated under 40 CFR Parts 405-471. Applicable guidelines, pollutants regulated by these guidelines, and the effluent limitation derivation for facilities subject to these guidelines is in the USEPA Effluent Limitation Guideline Calculations Table.

*Best Professional Judgement (BPJ)*

For substances that are not explicitly limited by regulations, the permit writer is authorized to use BPJ in developing TBELs. Consistent with section 402(a)(1) of the CWA, and NYS ECL section 17-0811, the DEC is authorized to issue a permit containing "any further limitations necessary to ensure compliance with water quality standards adopted pursuant to state law". BPJ limitations may be set on a case-by-case basis using any reasonable method that takes into consideration the criteria set forth in 40 CFR 125.3. Applicable state regulations include 6 NYCRR 750-1.11. The BPJ limitation considers the existing technology present at the facility, the statistically calculated existing effluent quality for that parameter, and any unique or site-specific factors relating to the facility. Technology limitations generally achievable for various treatment technologies are included in TOGS 1.2.1, Attachment C. These limitations may be used for the listed parameters when the technology employed at the facility is listed.

### *Minimum Level of Detection*

Pursuant to 40 CFR 122.44(i)(1)(iv) and 6 NYCRR 750-2.5(d), SPDES permits must contain monitoring requirements using sufficiently sensitive test procedures approved under 40 CFR Part 136. A method is "sufficiently sensitive" when the method's minimum level (ML) is at or below the level of the effluent limitation established in the permit for the measured pollutant parameter; or the lowest ML of the analytical methods approved under 40 CFR Part 136. The ML represents the lowest level that can be measured within specified limitations of precision and accuracy during routine laboratory operations on most effluent matrices. When establishing effluent limitations for a specific parameter (based on technology or water quality requirements), it is possible that the calculated limitation will fall below the ML established by the approved analytical method(s). In these instances, the calculated limitation is included in the permit with a compliance level set equal to the ML of the most sensitive method.

## Monitoring Requirements

CWA section 308, 40 CFR 122.44(i), 6 NYCRR 750-1.13, and 750-2.5 require that monitoring be included in permits to determine compliance with effluent limitations. Additional effluent monitoring may also be required to gather data to determine if effluent limitations may be required. The permittee is responsible for conducting the monitoring and reporting results on Discharge Monitoring Reports (DMRs). The permit contains the monitoring requirements for the facility. Monitoring frequency is based on the minimum sampling necessary to adequately monitor the facility's performance and characterize the nature of the discharge of the monitored flow or pollutant. Variable effluent flows and pollutant levels may be required to be monitored at more frequent intervals than relatively constant effluent flow and pollutant levels (6 NYCRR 750-1.13). For industrial facilities, sampling frequency is based on guidance provided in TOGS 1.2.1. For municipal facilities, sampling frequency is based on guidance provided in TOGS 1.3.3.

## Other Conditions

### Emerging Contaminants

Emerging Contaminants, such as Perfluorooctanoic acid (PFOA), Perfluorooctanesulfonic acid (PFOS), and 1,4-Dioxane (1,4-D), have been used in a wide variety of consumer and industrial products as well as in manufacturing processes for decades. Based on available research, water quality assessments for 1,4-D will follow existing WQBEL development. PFOA and PFOS do not break down easily; therefore, their presence in wastewater can remain a concern for years following their discontinued use. As the science surrounding these contaminants is still evolving, additional monitoring is needed to better understand potential sources and background levels. For more information on emerging contaminants, please see the DEC Division of Water web page: Emerging Contaminants In NY's Waters - NYSDEC.