

**Wyoming Department of Environmental Quality
Water Quality Division
WYPDES (Wyoming Pollutant Discharge Elimination System) Program**

STATEMENT OF BASIS

RENEWAL

APPLICANT NAME: **Merit Energy Company**

MAILING ADDRESS: **13727 Noel Rd., Ste. 500
Dallas, TX 74240**

FACILITY LOCATION: **Frannie P-T Unit Battery #2, SW Section 25, Township 58 North, Range 98
West, Park County. Receiving Waters :Sage Creek (2AB) via an unnamed
drainage (3B) eventually tributary to the Big Horn River.**

PERMIT NUMBER: **WY0026816**

INTRODUCTION: This facility is an oil production unit in which the oil and formation waters are separated at the surface using a heater treater, gravity separation, emulsion breaking chemicals, and/or skim ponds and tanks. This facility has one outfall that discharges produced water to Sage Creek (Class 2AB water) via an unnamed drainage, in the Big Horn River Basin. According to Chapter 1 of the Wyoming Water Quality Rules and Regulations, these waters contain or have the potential to contain fish, and the potential to be a drinking water source.

This permit requires an *initial monitoring report* of 17 constituents to determine compliance with water-quality-based aquatic life standards. The report is due at the DEQ by no later than October 1, 2007. After receiving the monitoring results for the initial discharge, the effluent limits and monitoring requirements established in this permit may be modified. See Part I.A.7 of the permit.

TECHNOLOGY BASED EFFLUENT LIMITS: The proposed permit requires compliance with Wyoming's produced water criteria, per Chapter 7 Water Quality Rules and Regulations. Based on Chapter 2, Appendix H, the proposed permit limits oil and grease to 10 mg/l, the pH must remain within the range of 6.5 to 9.0, and the specific conductance limit is 7,500 micromhos/cm. Water meeting these criteria can be used for stock and wildlife watering.

WATER QUALITY BASED EFFLUENT LIMITS: This permit includes water-quality-based limits for chloride, to protect aquatic life, based on discharges to Class 2AB or 3B waters. Instream standards for chloride are 860 mg/l acute standards, and 230 mg/l chronic standards, per Chapter 1, Wyoming Water Quality Rules and Regulations. Instream standards for total radium 226 is 5 pCi/l for Class 2AB water and 60 pCi/l for Class 2C and lower (e.g., Class 3B) waters. This facility was in existence before 1975, so is not subject to antidegradation requirements.

To determine the effluent limits the low flow conditions of the river must be considered. Establishing effluent limits upon low flow conditions will provide a margin of safety because "worst case" flow conditions are assumed when the dilution provided is lowest. The previous permit required collection of instream data so that effluent limits could be set, based on discharge to Class 2AB water. The permittee did instream flow monitoring, and based on the results, the low flow of Sage Creek is estimated at 1.3 cfs. Based on the wasteload allocation, the effluent limit for chloride at this facility is 1563 mg/l, and for total radium 226 is 9 pCi/l. However, the facility can meet the 230 mg/l instream standard end-of-pipe for chlorides, so the 230 mg/l will be set for the effluent limit. With compliance with the chlorides limits, the facility will 1) be in compliance for discharge to the unnamed drainage for which there is no dilution, and 2) also be in compliance with mixing zone policies, per Chapter 1, Wyoming Water Quality Rules and Regulations, Section 9. For total radium 226, the permittee has demonstrated that the radium concentration of the discharge does not impair Sage Creek. According to data provided by the permittee, the discharge radium concentration disintegrates to 9 pCi/l or less upon reaching Sage Creek. Thus, the permit limit for total radium 226 is 60 pCi/l to protect the immediate class 3B receiving stream.

As previously mentioned, the effluent limit for total-radium-226 is set at 60 pCi/l based on discharge to the unnamed drainage. Although a wasteload allocation indicates that a total-radium-226 limit of 9 pCi/l is necessary to protect Sage Creek, the permittee has demonstrated that the total-radium-226 concentration disintegrates to 9 pCi/l or less upon reaching Sage Creek.

Note: this facility is approximately 5 miles north of Equity Oil Company, WY0001350, #1 Webb-Anderson; Thomas Operating Corporation, WY0003140, Homestead Field Disposal; and Kevin Smith, WY0023922, Richards Lease, for which there is a different low flow value for Sage Creek.

ENHANCED USE OF PRODUCED WATER: Federal effluent guidelines, per 40 CFR Part 435 Subpart E, require that the discharge of produced water from oil production units has a use in agricultural or wildlife propagation when discharged. The term "use in agricultural or wildlife propagation" means that the produced water is of good enough quality to be used for wildlife or livestock watering or other agricultural uses and that the produced water is actually put to such use during periods of discharge. The Wyoming Game and Fish Department has determined that discharges of produced water from all existing WYPDES-permitted oil production units in Wyoming are being used to enhance wildlife propagation and habitat. Hence, this facility is in compliance with 40 CFR Part 435 Subpart E, provided that the discharge meets the effluent limits of this WYPDES permit.

WHOLE EFFLUENT TOXICITY TESTING: The effluent from this facility directly discharges into Class 2 waters. According to Chapter 1 of the Wyoming Water Quality Rules and Regulations, these waters contain or have the potential to contain fish. It has been determined that the effluent from oil production units may possess toxic characteristics. Since the effluent is discharged to waters that have the potential to support fish, it is necessary to protect the aquatic life.

Because the effluent from this facility directly discharges into Class 2 waters, the permit contains "Whole Effluent Toxicity" (WET) effluent limits and self monitoring requirements. On an annual basis, the effluent must be tested for two species (*Ceriodaphnia* and Fathead Minnows) for acute toxicity. Under this option, the effluent cannot cause mortality to more than 50 percent of the test organisms over a period of 48 hours for the *Ceriodaphnia* and 96 hours for the fathead minnows. This limitation shall become effective immediately upon issuance of the permit.

ANTIDegradation, IMPAIRMENT REVIEW: The discharge of wastewater and the effluent limits that are established in this permit have been reviewed to ensure that the levels of water quality necessary to protect the designated uses of the receiving waters are maintained and protected. An antidegradation review has been conducted and verifies that the permit conditions, including the effluent limitations established, provide a level of protection to the receiving water consistent with the antidegradation provisions of Wyoming surface water quality standards. An evaluation has been completed to ensure that the receiving water has not been listed on the 303(d) list as a waterbody that can not support designated uses. The evaluation has revealed that the receiving water is not included on this list and therefore does not require the development of a total maximum daily load at this time.

Because the discharge directly affects live water, self-monitoring of oil and grease is required monthly and chlorides must be monitored every two months. Total radium must be monitored annually and flow must be monitored monthly. Total Chromium must be monitored semi-annually and acrylamide monomer must be monitored annually. The permit is scheduled to expire June 30, 2012.

Roland Peterson
Water Quality Division
Department of Environmental Quality
April 11, 2007

Parameter	Low Flow, cfs (7Q10)	Low Flow, MGD (7Q10)	Discharge Rate, MGD	Combined Flow, MGD	Water Quality Standard, Chronic	Back ground Con. (LA)	Limit (WLA)	Pounds Per Day (WLA)	Pounds Per Day (LA)	Pounds Per Day (TMDL)
Radium, pCi/l	1.3	0.84	0.40	1.24	5.00	3.00	9.19	30.67	20.98	51.65
Chloride, mg/l	1.3	0.84	0.40	1.24	230.00	1.00	710.04	2368.70	6.99	2375.69
Parameter	Low Flow, cfs (7Q10)	Low Flow, MGD (7Q10)	Discharge Rate, MGD	Combined Flow, MGD	Water Quality Standard, Acute	Back ground Con. (LA)	Limit (WLA)	Pounds Per Day (WLA)	Pounds Per Day (LA)	Pounds Per Day (TMDL)
Radium, pCi/l	1.3	0.84	0.40	1.24	5.00	3.00	9.19	30.67	20.98	51.65
Chloride, mg/l	1.3	0.84	0.40	1.24	860.00	10.00	2641.81	8813.09	69.93	8883.02

Wasteload allocation table. The permittee has demonstrated that the discharge concentration of total-radium-226 is consistently below 9.19 pCi/l before reaching Sage Creek, Class 2AB water. The permit includes a chlorides limit of 230 mg/l to protect the immediate unnamed drainage receiving water, Class 3B, and to comply with mixing zone conditions..

AUTHORIZATION TO DISCHARGE UNDER THE
WYOMING POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, (hereinafter referred to as "the Act"), and the Wyoming Environmental Quality Act,

Merit Energy Company

is authorized to discharge from the wastewater treatment facilities serving the

Frannie P-T Unit Battery #2,

located in

SW Section 25, Township 58 North, Range 98 West, Park County.


to receiving waters named

Sage Creek (Class 2AB water) via an unnamed drainage (Class 3B water)

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II and III hereof.

This permit shall become effective on July 1, 2007.

This permit and the authorization to discharge shall expire at midnight, June 30, 2012.


John F. Wagner
Administrator - Water Quality

Date

6/18/07


John V. Corra
Director - Department of Environmental Quality

Date

6/18/07

83432-doc
05/02

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Effective immediately and lasting through June 30, 2012, the quality of effluent discharged by the permittee shall, at a minimum, meet the limitations set forth below. The permittee is authorized to discharge from outfall serial number(s) 001.

<u>Effluent Characteristic</u>	<u>Discharge Limitations Daily Maximum</u>
Oil and Grease, mg/l	10
Specific Conductance, micromhos/cm	7,500
Total Radium 226, pCi/l	60
Chlorides, mg/l	230
Total Chromium, mg/l	3
Acrylamide Monomer, mg/l	1
Flow, MGD	0.4

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units in any single grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts, nor shall the discharge cause formation of a visible sheen or visible deposits on the bottom or shoreline of the receiving water.

All waters shall be discharged in a manner to prevent erosion, scouring, or damage to stream banks, stream beds, ditches, or other waters of the state at the point of discharge. Discharges shall not occur in such a manner that will result in violations of Water Quality Rules and Regulations, Chapter 1, Section 15. In addition, there shall be no deposition of substances in quantities which could result in significant aesthetic degradation, or degradation of habitat for aquatic life, plant life or wildlife; or which could adversely affect public water supplies or those intended for agricultural or industrial use.

FOR FACILITIES THAT BLEND PRODUCED WATER WITH FRESH WATER AS A METHOD OF COMPLYING WITH WATER QUALITY BASED PERMIT EFFLUENT LIMITS

In some situations, it may be appropriate for the permit authorizing agent to allow the blending of produced water with fresh water as a method of complying with water quality based effluent limits that are established in the permit. The permit will clearly define the water quality based effluent limits that apply to the blended water and the location of compliance monitoring. For example, oil and grease must be monitored, and oil and grease effluent limits met, before water blending occurs. Discharge flow must be monitored before and after blending. Prior to issuance of the permit that authorizes blending, the permittee must provide documentation demonstrating the need for blending, the blending rates, and a confirmation that an application has been submitted to the State Engineers' Office for use of the fresh water well.

In addition, an automated shutdown system must be installed and maintained on site that terminates the discharge of produced water in the event of the shutdown of the fresh water supply. If the flow of the fresh water supply is terminated, discharge of the produced water must also be terminated simultaneously until the fresh water flow is completely restored and the proper blending rates are regained that results in compliance with the appropriate water quality based effluent limits established in the permit.

Monitoring Requirements

effective immediately and lasting through June 30, 2012

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Oil and Grease	Monthly	Grab
Total Radium 226	Annually	Grab
Chlorides	Once Every Two Months	Grab
Flow, MGD	Monthly	Instantaneous
Acrylamide Monomer	Annually	Grab
Total Chromium	Semi-Annually	Grab
Specific Conductance	Annually	Grab
pH	Annually	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the outfall of the final treatment unit which is located out of the natural drainage and prior to admixture with diluent waters.

*** For facilities that blend produced water with fresh water as a method of complying with water quality based permit effluent limits;** oil and grease must be monitored, and oil and grease effluent limits met, before water blending occurs. Discharge flow, chlorides, and radium must be monitored before and after blending.

2. Effluent Limitations (Toxic Pollutants)

Effective immediately there shall be no acute toxicity in the discharge from outfall number 001.

3. Whole Effluent Testing

Starting in calendar year 2007, the permittee shall, at least once each calendar year, conduct acute static replacement toxicity tests on a grab sample of the discharge.

The replacement static toxicity tests shall be conducted in accordance with the procedures set out in accordance with the latest procedures set forth in 40 CFR 136.3 and the "Region VIII EPA NPDES Acute Test Conditions - Static Renewal Whole Effluent Toxicity Tests". In the case of conflicts, the 40 CFR 136.3 document will prevail. The permittee shall conduct an acute static toxicity test using Ceriodaphnia sp. and an acute 96-hour static replacement toxicity test using fathead minnows.

Acute toxicity occurs when 50 percent or more mortality is observed for either species at any effluent concentration. If more than 10 percent control mortality occurs, the test shall be repeated until satisfactory control survival is achieved, unless a specific individual exception is granted by the permit issuing authority. This exception may be granted if less than 10 percent mortality was observed at the dilutions containing the highest effluent concentrations.

If acute toxicity occurs, an additional test shall be conducted within four (4) weeks of the date of the initial sample. If only one species fails, retesting may be limited to this species. Should acute toxicity occur in the second test, testing shall occur once a month until further notified by the permit issuing authority.

Test results shall be reported along with the Discharge Monitoring Report (DMR) submitted for the first half of the calendar year (e.g., whole effluent results shall be reported with the DMR due July 28). The

format for the report shall be consistent with the latest revision of the "Region VIII Guidance for Acute Whole Effluent Reporting", and shall include all chemical and physical data as specified.

4. Sampling Point for Toxicity Testing

Effluent samples collected for the purpose of determining compliance with the above toxicity requirements may be collected at a point immediately above entry into the receiving water **provided** the effluent has not been diluted by any other water or effluent.

5. Toxicity Reduction Evaluation (TRE)
Toxicity Identification Evaluation (TIE)

Should acute toxicity and/or chronic toxicity be detected in the permittee's discharge, a TIE-TRE shall be undertaken by the permittee to establish the cause of the toxicity, locate the source(s) of the toxicity, and develop control of, or treatment for the toxicity. Failure to initiate, or conduct an adequate TIE-TRE, or delays in the conduct of such tests, shall not be considered a justification for noncompliance with the whole effluent toxicity limits contained in Part I.C.1. of this permit. A TRE plan needs to be submitted to the permitting authority within 45 days after confirmation of the continuance of effluent toxicity.

6. Chronic Toxicity Limitation-Reopener Provision

This permit may be reopened and modified (following proper administrative procedures) to include chronic whole effluent toxicity limitations if any other information or data are developed indicating that chronic whole effluent toxicity limits are needed as required under 40 CFR 122.44 (d). Also see Part IV.P. of this permit for additional whole effluent toxicity reopener provisions.

If acceptable to the permit issuing authority, and if in conformance with current regulations, this permit may be reopened and modified to incorporate TRE conclusions relating to additional numerical limitations, a modified compliance schedule, and or modified whole effluent protocol.

7. Discharges shall be monitored by the permittee as specified below:

Within 60 days of permit renewal, a sample shall be collected from each outfall and analyzed for the 17 constituents specified below, at the required detection limits. By no later than October 1, 2007, a summary report on the produced water must be submitted to the Wyoming Department of Environmental Quality at the address listed below. This summary report must include the results and detection limits for each of the 17 constituents. After receiving the monitoring results for the initial discharge, the effluent limits and monitoring requirements established in this permit may be modified.

PARAMETER	REQUIRED DETECTION LIMIT	CHAPTER 1 AQUATIC LIFE STANDARD FOR CLASS 1, 2, AND 3 WATERS	RESULT
Arsenic, total recoverable	1 ug/l	10 ug/l	
Cadmium, dissolved	0.25 ug/l	0.25 ug/l (hardness dependent)	
Chromium, dissolved (III)	1 ug/l	74.1 ug/l (hardness dependent)	
Copper, dissolved	9 ug/l	9 ug/l (hardness dependent)	
Lead, dissolved	2 ug/l	2.5 ug/l (hardness dependent)	
Mercury, dissolved	1 ug/l	0.77 ug/l	
Nickel, dissolved	10 ug/l	52 ug/l (hardness dependent)	

PARAMETER	REQUIRED DETECTION LIMIT	CHAPTER 1 AQUATIC LIFE STANDARD FOR CLASS 1, 2, AND 3 WATERS	RESULT
Selenium, total recoverable	5 ug/l	5 ug/l	
Silver, dissolved	3 ug/l	3.4 ug/l (hardness dependent)	
Zinc, dissolved	50 ug/l	118.1 ug/l (hardness dependent)	
Aluminum	50 ug/l	87 ug/l	
Chloride-water quality based	5 mg/l	230 mg/l (except Class 3 waters)	
Iron, dissolved	50 ug/l	1000 ug/l	
Manganese, dissolved	50 ug/l	1462 ug/l	
Sulfide-Hydrogen Sulfide (S ²⁻ , HS ⁻)	0.1 mg/l	2 ug/l	
hardness (CaCO ₃) Mg/L	10 mg/l as CaCO ₃	(for metals analysis)	
Total Radium 226	0.2 pCi/l	5 pCi/l (Class 2AB waters)	
Total Radium 226	0.2 pCi/l	60 pCi/l (Class 2C and lower)	

Initial monitoring reports are to be sent to the following address:

Wyoming Department of Environmental Quality
 Water Quality Division
 Herschler Building, 4 West
 122 West 25th Street
 Cheyenne, WY 82002

B. MONITORING AND REPORTING

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 wastestream, body of water, or substance. Monitoring points shall not be changed without notification to and approval by, the permit issuing authority.

2. Reporting

Effluent monitoring results obtained during the previous six (6) month(s) shall be summarized and reported on a Discharge Monitoring Report Form. Whole effluent toxicity (biomonitoring) results must be reported on the most recent version of EPA Region VIII's Guidance for Whole Effluent Reporting. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part II.A.11.), and submitted to the state water pollution control agency at the following addresses postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on January 28, 2008.

Wyoming Department of Environmental Quality
 Water Quality Division
 Herschler Building, 4 West
 122 West 25th Street

Cheyenne, WY 82002
Telephone: (307) 777-7781

If no discharge occurs during the reporting period, "no discharge" shall be reported. If discharge is intermittent during the reporting period, sampling shall be done while the facility is discharging.

3. Definitions

- a. A "composite" sample, for monitoring requirements, is defined as a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow.
- b. The "daily maximum" shall be determined by the analysis of a single grab or composite sample.
- c. An "instantaneous" measurement for monitoring requirements is defined as a single reading, measurement, or observation.
- d. The "monthly average" shall be determined by calculating the arithmetic mean (geometric mean in the case of fecal coliform) of all composite and/or grab samples collected during a calendar month.
- e. "Net" value, if noted under Effluent Characteristics, is calculated on the basis of the net increase of the individual parameter over the quantity of that same parameter present in the intake water measured prior to any contamination or use in the process of this facility. Any contaminants contained in any intake water obtained from underground wells shall not be adjusted for as described above and, therefore, shall be considered as process input to the final effluent. Limitations in which "net" is not noted are calculated on the basis of gross measurements of each parameter in the discharge, irrespective of the quantity of those parameters in the intake waters.
- h. A "pollutant" is any substance or substances which, if allowed to enter surface waters of the state, causes or threatens to cause pollution as defined in the Wyoming Environmental Quality Act, Section 35-11-103.
- f. The "weekly average" shall be determined by calculating the arithmetic mean (geometric mean in the case of fecal coliform) of all composite and/or grab samples collected during any week.

4. Test Procedures

Test procedures for the analysis of pollutants, collection of samples, sample containers, sample preservation, and holding times, shall conform to regulations published pursuant to 40 CFR, Part 136, unless other test procedures have been specified in this permit.

5. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The exact place, date and time of sampling;
- b. The dates and times the analyses were performed;
- c. The person(s) who performed the analyses;
- d. The analytical techniques or methods used; and
- e. The results of all required analyses including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine the results.

6. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated.

7. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the administrator at any time. Data collected on site, copies of Discharge Monitoring Reports and a copy of this WYPDES permit must be maintained on site during the duration of activity at the permitted location.

8. Penalties for Tampering

The Act provides that any person who falsifies, tampers with or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two (2) years per violation, or both.

9. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.

10. Facility Identification

All facilities discharging produced water shall be clearly identified with an all-weather sign posted at a visually prominent location. This sign shall, as a minimum, convey the following information:

- a. The name of the company, corporation, person or persons who hold(s) the discharge permit; and
- b. The name of the facility (lease, tank battery number, etc.) as identified by the discharge permit.

11. Outlet Structures

The permittee shall construct and maintain all outlet structures so that there is a free fall from the discharge pipe sufficient to allow the collection of representative samples and the measurement of flow volume using the bucket and stopwatch technique.

If the volume of discharge is too large to make measurement of flow by the bucket and stopwatch technique practical, the permittee must be able to measure or calculate flow volume by another means to an accuracy of plus or minus ten percent of the actual flow.

PART II

A. MANAGEMENT REQUIREMENTS

1. Changes

The permittee shall give notice to the administrator of the Water Quality Division as soon as possible of any physical alterations or additions to the permitted facility. Notice is required when:

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29 (b); or
- b. The alteration or addition could change the nature or increase the quantity of pollutants discharged.

2. Noncompliance Notification

- a. The permittee shall give advance notice of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- b. The permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than 24 hours from the time the permittee first became aware of the circumstances. The report shall be made to the Water Quality Division, Wyoming Department of Environmental Quality at (307) 777-7781.
- c. For any incidence of noncompliance, including noncompliance related to non-toxic pollutants or non-hazardous substances, a written submission shall be provided within five (5) days of the time that the permittee becomes aware of the noncompliance circumstance.

The written submission shall contain:

- (1) A description of the noncompliance and its cause;
 - (2) The period of noncompliance, including exact dates and times;
 - (3) The estimated time noncompliance is expected to continue if it has not been corrected; and
 - (4) Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
- d. The following occurrences of unanticipated noncompliance shall be reported by telephone to the Water Quality Division, Watershed Management Section, WYPDES Program (307) 777-7781 as soon as possible, but no later than 24 hours from the time the permittee first became aware of the circumstances.
 - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - (2) Any upset which exceeds any effluent limitation in the permit; or
 - (3) Violation of a maximum daily discharge limitation for any toxic pollutants or hazardous substances, or any pollutants specifically identified as the method to control a toxic pollutant or hazardous substance listed in the permit.
 - e. The administrator of the Water Quality Division may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Quality Division, WYPDES Program (307) 777-7781.

- f. Reports shall be submitted to the Wyoming Department of Environmental Quality at the address in Part I under Reporting and to the Planning and Targeting Program, 8ENF-PT, Office of Enforcement, Compliance, and Environmental Justice, U.S. EPA Region 8, 999 18th St., Suite 300, Denver, CO 80202-2466.
- g. The permittee shall report all instances of noncompliance that have not been specifically addressed in any part of this permit at the time the monitoring reports are due.

3. Facilities Operation

The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, as a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.

4. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to waters of the state resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

5. Bypass of Treatment Facilities

- a. Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
- b. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs c. and d. of this section. Return of removed substances to the discharge stream shall not be considered a bypass under the provisions of this paragraph.
- c. Notice:
 - (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice at least 60 days before the date of the bypass.
 - (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.A.2.
- d. Prohibition of bypass.
 - (1) Bypass is prohibited and the administrator of the Water Quality Division may take enforcement action against a permittee for a bypass, unless:
 - (a) The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- (c) The permittee submitted notices as required under paragraph c. of this section.
- e. The administrator of the Water Quality Division may approve an anticipated bypass, after considering its adverse effects, if the administrator determines that it will meet the three conditions listed above in paragraph d. (1) of this section.

6. Upset Conditions

- a. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improper designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- b. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph c. of this section are met.
- c. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:
 - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee submitted notice of the upset as required under Part II.A.2; and
 - (4) The permittee complied with any remedial measures required under Part II.A.4.
- d. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

7. Removed Substances

Solids, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters or intake waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the state.

8. Power Failures

In order to maintain compliance with the effluent limitations and prohibitions of this permit, the permittee shall either:

- a. In accordance with a schedule of compliance contained in Part I, provide an alternative power source sufficient to operate the wastewater control facilities; or
- b. If such alternative power source as described in paragraph a. above is not in existence and no date for its implementation appears in Part I, take such precautions as are necessary to maintain and operate the facility under its control in a manner that will minimize upsets and insure stable operation until power is restored.

9. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the federal act and the Wyoming Environmental Quality Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the administrator of the Water Quality Division advance notice of any planned changes at the permitted

facility or of any activity which may result in permit noncompliance.

10. Duty to Mitigate

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 or the environment.

11. Signatory Requirements

All applications, reports or information submitted to the administrator of the Water Quality Division shall be signed and certified.

a. All permit applications shall be signed as follows:

- (1) For a corporation: by a responsible corporate officer;
- (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;
- (3) For a municipality, state, federal or other public agency: by either a principal executive officer or ranking elected official.

b. All reports required by the permit and other information requested by the administrator of the Water Quality Division shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (1) The authorization is made in writing by a person described above and submitted to the administrator of the Water Quality Division; and
- (2) The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

c. If an authorization under paragraph II.A.11.b. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph II.A.11.b must be submitted to the administrator of the Water Quality Division prior to or together with any reports, information or applications to be signed by an authorized representative.

d. Any person signing a document under this section shall make the following certification:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

B. RESPONSIBILITIES

1. Inspection and Entry

If requested, the permittee shall provide written certification from the surface landowner(s), if different than the

permittee, that the administrator or the administrator's authorized agent has access to all physical locations associated with this permit including well heads, discharge points, reservoirs, monitoring locations, and any waters of the state.

The permittee shall allow the administrator of the Water Quality Division or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and
- d. Sample or monitor, at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the federal act, any substances or parameters at any location.

2. Transfer of Ownership or Control

In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the regional administrator of the Environmental Protection Agency and the administrator of the Water Quality Division. The administrator of the Water Quality Division shall then provide written notification to the new owner or controller of the date in which they assume legal responsibility of the permit. The permit may be modified or revoked and reissued to change the name of the permittee and incorporate such other requirements as described in the federal act.

3. Availability of Reports

Except for data determined to be confidential under Section 308 of the federal act, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Wyoming Department of Environmental Quality and the regional administrator of the Environmental Protection Agency. As required by the federal act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the federal act.

4. Toxic Pollutants

The permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the federal act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Changes in Discharge of Toxic Substances

Notification shall be provided to the administrator of the Water Quality Division as soon as the permittee knows of, or has reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (1) One hundred micrograms per liter (100 µg/l);
 - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred

micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

- (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21 (g) (7); or
- (4) The level established by the director of the Environmental Protection Agency in accordance with 40 CFR 122.44 (f).

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (1) Five hundred micrograms per liter (500 µg/l);
- (2) One milligram per liter (1 mg/l) for antimony;
- (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21 (g) (7); or
- (4) The level established by the director of the Environmental Protection Agency in accordance with 40 CFR 122.44 (f).

6. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. As long as the conditions related to the provisions of "Bypass of Treatment Facilities" (Part II.A.5), "Upset Conditions" (Part II.A.6), and "Power Failures" (Part II.A.8) are satisfied then they shall not be considered as noncompliance.

7. Need to Halt or Reduce Activity 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 in order to maintain compliance with the conditions of this permit.

8. Oil and Hazardous Substance Liability

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 to which the permittee is or may be subject under Section 311 of the federal act.

9. 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 state or federal law or regulation. In addition, issuance of this permit does not substitute for any other permits required under the Clean Water Act or any other federal, state, or local law.

10. Property Rights

The issuance of 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.

11. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.

12. Duty to Provide Information

The permittee shall furnish to the administrator of the Water Quality Division, within a reasonable time, any information which the administrator 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 to the administrator, upon request, copies of records required by this permit to be kept.

13. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or any report to the administrator of the Water Quality Division, it shall promptly submit such facts or information.

14. Permit Action

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

15. Permit Fees

Once this permit has been issued, the permittee will be assessed a \$100.00 per-year permit fee by the Water Quality Division. The fee year runs from July 1 through June 30. This permit fee will continue to be assessed for as long as the permit is active, regardless of whether discharge actually occurs. This fee is not pro-rated. If the permit is active during any portion of the fee year, the full fee will be billed to the permittee for that fee year. In the event that this permit is transferred from one permittee to another, each party will be billed the full permit fee for the fee year in which the permit transfer was finalized. See the Wyoming Environmental Quality Act §35-11-312 for further information.

PART III

A. OTHER REQUIREMENTS

1. Flow Measurement

At the request of the administrator of the Water Quality Division, the permittee must be able to show proof of the accuracy of any flow measuring device used in obtaining data submitted in the monitoring report. The flow measuring device must indicate values of within plus or minus ten (10) percent of the actual flow being measured.

2. 208(b) Plans

This permit may be modified, suspended or revoked to comply with the provisions of any 208(b) plan certified by the Governor of the State of Wyoming.

3. Reopener Provision

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary) or other appropriate requirements if one or more of the following events occurs:

- a. The state water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit;
- b. A total maximum daily load (TMDL) and/or watershed management plan is developed and approved by the state and/or the Environmental Protection Agency which specifies a wasteload allocation for incorporation in this permit;
- c. A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit;
- d. Downstream impairment is observed and the permitted facility is contributing to the impairment;
- e. The limits established by the permit no longer attain and/or maintain applicable water quality standards;
- f. The permit does not control or limit a pollutant that has the potential to cause or contribute to a violation of a state water quality standard.
- g. If new applicable effluent guidelines and/or standards have been promulgated and the standards are more stringent than the effluent limits established by the permit.
- h. In order to protect water quality standards in neighboring states, effluent limits may be incorporated into this permit or existing limits may be modified to ensure that the appropriate criteria, water quality standards and assimilative capacity are attained.

4. Permit Modification

After notice and opportunity for a hearing, this permit may be modified, suspended or revoked in whole or in part during its term for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this permit;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;

- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- d. If necessary to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b) (2) (C) and (D), 304 (b) (2) and 307 (a) (2) of the federal act, if the effluent standard or limitation so issued or approved:
 - (1) Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
 - (2) Controls any pollutant not limited in the permit.

5. Toxicity Limitation - Reopener Provision

This permit may be reopened and modified (following proper administrative procedures) to include a new compliance date, additional or modified numerical limitations, a new or different compliance schedule, a change in the whole effluent protocol or any other conditions related to the control of toxicants if one or more of the following events occur:

- a. Toxicity was detected late in the life of the permit near or past the deadline for compliance;
- b. The toxicity reduction evaluation (TRE) results indicate that compliance with the toxic limits will require an implementation schedule past the date for compliance and the permit issuing authority agrees with the conclusion;
- c. The TRE results indicate that the toxicant(s) represent pollutant(s) that may be controlled with specific numerical limits and the permit issuing authority agrees that numerical controls are the most appropriate course of action;
- d. Following the implementation of numerical controls on toxicants, the permit issuing authority agrees that a modified whole effluent protocol is necessary to compensate for those toxicants that are controlled numerically;
- e. The TRE reveals other unique conditions or characteristics which, in the opinion of the permit issuing authority, justify the incorporation of unanticipated special conditions in the permit.

6. 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.

7. Penalties for Falsification of Reports

The federal act provides that any person who knowingly makes 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 reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation or by imprisonment for not more than two years per violation or both.

