

**Wyoming Department of Environmental Quality
Water Quality Division
NPDES Program**

STATEMENT OF BASIS

MODIFICATION

APPLICANT NAME: North Antelope Coal

MAILING ADDRESS: Caller Box 3034
Gillette, WY 82717-3035

FACILITY LOCATION: North Antelope and Rochelle Mines, which is located in the S8-12,15,16,20, 21; T41N R70W, Campbell County. The wastewater will be discharged to Porcupine Creek, Red Fox Draw, Coyote Draw, Rattlesnake Draw, Peabody Draw, Boltz Draw (Class 3B waters), Cheyenne River Basin.

PERMIT NUMBER: **WY0028177**

MODIFICATION: This permit is being modified to add one outfall (027) and delete one outfall (026). All other permit requirements remain the same as the existing permit. The only permit conditions eligible for public comment with this modification are changes mentioned in this paragraph.

BACKGROUND:

North Antelope Coal Company is the owner and operator of the North Antelope Mine. The mine is a large open pit coal mine which is approximately 50 miles south of the City of Gillette, Wyoming. Wastewaters associated with this mine are routed through settling ponds before being discharged to the surface. The permit authorizes discharge of wastewater from 11 different outfalls. The wastewater discharges include pit water, equipment and facilities wash down water, disturbed area runoff, and natural runoff.

CHANGES FROM THE PREVIOUS PERMIT:

Because of the revision of Chapter 1, Water Quality Rules and Regulation, the classification of the receiving water are upgraded from Class 4 water to Class 3B. The basic difference between a Class 3 water and a Class 4 water is that Class 3 waters are protected for aquatic life whereas Class 4 waters are not. As a result, this permit renewal will include water quality based effluent limits to protect aquatic life not present in the previous permit, which go into affect after a two-year interim period. This includes the addition of monitoring and effluent limits for dissolved iron and dissolved manganese. Also, since the "total settleable solids" standards, per Chapter 10, are only allowed in situations where discharges are to Class 4 waters, the alternate "total settleable solids" standards are not allowed with this permit, also after a two-year interim period. The permittee has the option of challenging the classification of the receiving waters, possibly reclassifying the waters to Class 4, via a use-attainability-analysis procedure. Use-attainability-analyses procedures are outlined in Chapter 1, Wyoming Water Quality Rules and Regulations, Sections 33 and 34, and "Wyoming Surface Water Quality Standards, Implementation Policies for Use Attainability Analysis". Section 5 of Chapter 1 provides the allowance for interim limits and compliance schedules.

TECHNOLOGY BASED LIMITS: Technology based limits for this permit, per Chapter 10, Wyoming Water Quality Rules and Regulations, include total iron, 3.0 mg/l; total manganese, 2.0 mg/l; and total suspended solids at 30 mg/l, all daily averages. These limits are based on Chapter 10, Wyoming Water Quality Rules and Regulations and federal effluent guidelines per 40 CFR Part 434, Coal Mining Point source category. These requirements were present in the previous permit. The limit for pH is 6.5 to 9.0 standard units, per Chapter 1, Wyoming Water Quality Rules and Regulations.

WATER QUALITY BASED EFFLUENT LIMITS: Instream standards for the contaminants of concern are dissolved iron, 1000 ug/l; and dissolved manganese, 1462 Ug/l. Both values are chronic aquatic life standards, per Chapter 1, Wyoming Water Quality Rules and Regulations (which are more stringent than acute standards). Allowable effluent limits are set so that when the discharge from the facility is mixed with the receiving stream, the in-stream standard of the constituent is not violated. Since discharge is to often-dry drainages, the effluent limits will be set equal to the instream standards, assuming no dilution from the receiving stream. Therefore, the effluent limits for dissolved iron will be 1000 ug/l, and for dissolved manganese, 1462 ug/l.

COMPLIANCE SCHEDULE: Because it is unknown whether permittee will be able to meet the newly imposed water quality based effluent limits, or total suspended solids limits during wet weather, a two year compliance schedule is included with this permit to allow the permittee to determine ability to meet these limits, and if necessary, the opportunity to upgrade the water treatment system to meet the limits, or to cease discharge. This two-year compliance schedule will also allow the permittee to challenge the classification of the receiving waters, if desired.

As previously mentioned, the permittee has the option of challenging the classification of the receiving waters, possibly reclassifying the waters to Class 4, via a use-attainability-analysis procedure. With successfully reclassifying the receiving waters to Class 4, the abovementioned dissolved iron and dissolved manganese effluent limits may be eliminated from the permit via permit modification or renewal. Also, with reclassifying the receiving waters to Class 4, the "total settleable solids" standards would remain in effect, if the permittee desires.

This permit includes, for a two-year period, interim effluent limits and monitoring requirements based on the previous permit. The effluent limits include total iron, 3.0 mg/l; total manganese, 2.0 mg/l; and total suspended solids at 30 mg/l, all daily averages. The limit for pH is 6.5 to 9.0 standard units, per Chapter 1, Wyoming Water Quality Rules and Regulations. The limits for dissolved iron and dissolved manganese are not present during the interim period, however monitoring for these constituents is required. Also during this interim period, the alternate "total settleable solids" standards are allowed with this permit.

BEST MANAGEMENT PRACTICES: Sedimentation ponds that are designed to completely contain the runoff resulting from a ten year , 24 hours storm event will control runoff from disturbed areas. Because these ponds will not normally discharge, they are not specifically identified in the permit but are covered by operation and maintenance provisions.

The permit also requires runoff from disturbed areas to be controlled by sedimentation ponds or other appropriate measures. Control of potentially contaminated storm water from haul roads, rail spur lines, and ancillary areas will be accomplished by the permittee under the provisions of the State of Wyoming's general storm water permit associated with industrial activities. The mine has already been granted coverage under this general permit (WYR000351).

Self-monitoring of effluent quality and quantity is required on a regular basis with reporting of results quarterly. The permit is scheduled to expire on June 30, 2008.

Roland Peterson
Water Quality Division
Department of Environmental Quality
Drafted: April 11, 2003

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL 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,

North Antelope Coal

is authorized to discharge from the wastewater treatment facilities serving the

North Antelope and Rochelle Mines

located in

the S8-12,15,16, 20, 21 T41N R70W, Campbell County

to receiving waters named

Porcupine Creek, Red Fox Draw, Coyote Draw, Rattlesnake Draw, Peabody Draw, Boltz Draw (Class 3B waters), Cheyenne River Basin

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 the date of signature by the Director of the Department of Environmental Quality.

This permit and the authorization to discharge shall expire June 30, 2008 at midnight .


John F. Wagner, Administrator
Water Quality Division

Date

2/4/05


John V. Corra
Director - Department of Environmental Quality

Date

2/7/05

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. **INTERIM EFFLUENT LIMITS:**

Effective immediately and lasting through June 30, 2005 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 outfalls(s) serial number(s) 001, 003, 015-019, 022-024, 027.

Such discharges shall be limited and monitored by the permittee as specified below:

- a. **If:** There has been no measurable precipitation or snowmelt during the previous ten days;
- Then:** Any discharge must meet the following effluent limitations and self-monitoring requirements:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>		
	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>Instantaneous Maximum</u>
Flow - MGD	N/A	N/A	N/A
Total Iron, mg/l	3.0	6.0	9.0
Total Manganese, mg/l *	2.0	4.0	6.0
Total Suspended Solids, mg/l	30	45	90

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 foam in other than trace amounts. Nor shall the discharge have a visible sheen or 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.

Routine Monitoring Requirements, 7/1/03-6/30/05

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow - MGD	Weekly	Instantaneous
Oil and Grease	Continuous	Visible sheen
pH	Monthly	Grab
Total Iron	Monthly	Grab
Total Manganese *	Monthly	Grab

Dissolved Iron	Monthly	Grab
Dissolved Manganese*	Monthly	Grab
Total Suspended Solids	Weekly	Grab

* These limitations apply and monitoring is required only when the pH of the discharge is less than 7.0 units.

- b. **If:** During the previous ten days there has been a precipitation and/or snow melt event of any duration within any 24 hour period which results in a precipitation depth less than or equal to the 10-year, 24-hour event (2.2 inches);
- Then:** Any discharge must meet an instantaneous maximum settleable solids limitation of 0.5 ml/l and a pH of 6.0 to 9.0. Discharge quality (pH and settleable solids) and quantity must be measured with a single grab sample on the first day that a discharge occurs following any precipitation or snow melt event.
- c. **If:** During the previous ten (10) days there has been a precipitation and/or snow melt event of any duration within any 24 hour period which results in a precipitation depth more than the 10-year, 24-hour event (2.2 inches);
- Then:** Any discharge on the day of the event or on the first and second day following such an event must meet a pH limitation of 6.0 - 9.0 and no monitoring is required. Any discharge during the third through tenth day following that event must meet an instantaneous maximum settleable solids limitation of 0.5 ml/l and a pH of 6.0 to 9.0. Discharge quality (settleable solids and pH) and quantity must be measured with a single grab sample on the third, fifth and tenth days following the event.
- d. All runoff control facilities shall be operated in a manner to minimize, to the extent practicable, the discharge of suspended solids and sediment. If, after on-site inspection by the Wyoming Department of Environmental Quality and/or the U.S. Environmental Protection Agency, it is determined that a runoff control pond is not being so operated, such finding shall be considered to be a violation of this permit.
- e. It shall be the responsibility of the permittee to document runoff and snow melt conditions whenever a discharge occurs.
- f. Samples taken to comply with the monitoring requirements of this permit shall be taken at the outfall from the final treatment unit and prior to admixture with diluent water or the receiving stream.

FINAL EFFLUENT LIMITS: Effective July 1, 2005 and lasting through June 30, 2008 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 outfalls(s) serial number(s) 001, 003, 015-019, 022-024, 027.

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitation *</u>		
	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>Instantaneous Maximum</u>

Flow - MGD	N/A	N/A	N/A
Total Iron, mg/l *	3.0	6.0	9.0
Total Manganese, mg/l ** *	2.0	4.0	6.0
Total Suspended Solids, mg/l*	30	45	90
Dissolved Iron, mg/l	1.0	1.0	1.0
Dissolved Manganese, mg/l	1.462	1.462	1.462

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 foam in other than trace amounts. Nor shall the discharge have a visible sheen or 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.

MONITORING REQUIREMENTS

Routine Monitoring Requirements, 7/1/05-6/30/08

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow - MGD	Weekly	Instantaneous
Oil and Grease	Continuous	Visible sheen
pH	Monthly	Grab
Total Iron	Monthly	Grab
Total Manganese **	Monthly	Grab
Dissolved Iron	Monthly	Grab
Dissolved Manganese**	Monthly	Grab
Total Suspended Solids	Weekly	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the outfall from the final treatment unit and prior to admixture with diluent water or the receiving stream.

* These limitations do not apply if it is shown that the discharge was the result of a 10 year 24 hour or larger precipitation event (2.2 inches) or snow melt of equivalent volume. The operator shall have the burden of demonstrating to the appropriate authority that the prerequisite for this exemption has been met.

** These limitations apply and monitoring is required only when the pH of the discharge is less than 7.0 units.

B. EROSION CONTROL

Effective immediately and lasting through June 30, 2008, the permittee shall control erosion from affected land to insure there is no violation of Wyoming's surface water quality standards.

Affected land means the area of land from which overburden is removed, or upon which overburden, development waste rock or refuse is deposited, or both, access roads, haul roads, mineral stockpiles, mill tailings, impoundment basins, and all other lands whose natural state has been or will be disturbed as a result of the operations.

If erosion from affected land is controlled through the use of settling pond(s), the following provisions apply:

1. If a settling pond is not sized to completely contain the runoff resulting from precipitation, an equivalent snow melt or combination of precipitation and resulting snow melt equal to the 10 year/24 hour precipitation event (2.2 inches), the outfall from such settling pond must be identified as a point of discharge under Part I.C.10 of this permit.
2. If a settling pond is sized to completely contain the runoff from the 10 year/24 hour precipitation event as described above, the outfall from such settling pond need not be identified as a point of discharge in Part I.C.10. However, it must be operated as follows:
 - a. During and immediately following a precipitation or runoff event equal to or greater than the 10 year/24 hour precipitation event as described above, runoff in excess of the design capacity of the pond may be discharged even if the effluent does not meet the quality requirements of Part I.A of this permit.
 - b. If, as the result of any precipitation or runoff event, the volume of water held in the pond exceeds the permanent pool, the water in the pond shall be analyzed at a minimum of once every five (5) days. When the total suspended solids concentration of the water is less than or equal to the total suspended solids limitations in Part I.A of the permit, the quantity in excess of the permanent pool shall be discharged within ten (10) days.
 - c. The volume, Total Suspended Solids, Total Iron and pH of the discharges described in "b" above shall be monitored with single grab samples and shall be reported to the permit issuing authority as an addendum to the regular reports described in Part I.C.2 of this permit.
 - d. All runoff control facilities shall be operated in a manner to minimize, to the extent practicable, the discharge of suspended solids and sediment. If, after on-site inspection by the Wyoming Department of Environmental Quality and/or the U.S. Environmental Protection Agency, it is determined that a runoff control pond is not being so operated, such finding shall be considered to be a violation of this permit.

In addition, the permittee shall operate and maintain all runoff control ponds such that:

1. Sluicing of collected sediments does not occur;
2. Scouring or erosion of the bottom of outlet channels does not occur;
3. The ponds shall be designed and maintained to contain at least one year's worth of accumulated sediment storage as determined by acceptable empirical methods.

C. COMPLIANCE SCHEDULE, Effluent Limits

According to Chapter 1, Wyoming Water Quality Rules and Regulations discharges to waters may not result in an exceedance of dissolved iron, 1000 ug/l; and dissolved manganese, 1462 Ug/l. It is unknown if the facility will be able to comply with these standards. Also, with reclassification of the receiving waters to Class 3B, the "total settleable solids" standards, per Chapter 10 are no longer allowed, so it is not known if the permittee can meet total suspended solids limits during wet weather discharges. Therefore, this permit establishes the following compliance schedule.

1. By January 1, 2004, the operator of the facility shall submit a written demonstration of the ability to comply with the dissolved iron, dissolved manganese, and total suspended solids limits in the "Final Effluent Limits" referenced above. This demonstration shall clearly state if the facility believes it will or will not be able to comply with the limits.
2. If the permittee believes he cannot meet the effluent limits; or the permittee wishes to re-incorporate "total settleable solids" monitoring and effluent limit criteria to the permit standards, per Chapter 10, Wyoming Water Quality Rules and Regulations, a use-attainability-analysis petition may be submitted to the DEQ/WQD. If this option is chosen, the use-attainability analyses petition must be received at the DEQ by June 1, 2004. Use-attainability-analysis procedures are outlined in Chapter 1, Wyoming Water Quality Rules and Regulations, Sections 33 and 34, and "Wyoming Surface Water Quality Standards, Implementation Policies for Use Attainability Analyses".
3. If it is determined that the facility will not be able to comply with the limits, by June 1, 2005, the operator shall provide written demonstration that they have upgraded the wastewater treatment system so that the limit can be met; that the facility will no longer discharge; or that the use-attainability-analysis procedures reclassified the receiving water to Class 4 water. If the use-attainability-analysis procedures reclassify the receiving water to Class 4 water, the permit may be modified or renewed to eliminate effluent limits for dissolved iron and dissolved manganese per the "Final Effluent Limits" listed above, and to re-incorporate the "total settleable solids" monitoring and effluent limit criteria to the permit standards, per Chapter 10, Wyoming Water Quality Rules and Regulations .

D. 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 three month(s) shall be summarized and reported on a Discharge Monitoring Report Form. If the permit requires whole effluent toxicity (WET) (biomonitoring) testing, WET test 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 April 28, 2005.

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 average" shall be determined by calculating the arithmetic mean (geometric mean in the case of the fecal coliform) of a minimum of three samples collected on three separate days during a calendar month.
- c. The "daily maximum" shall be determined by the analysis of a properly preserved composite sample composed of a minimum of four grab samples collected at equally spaced two hour intervals and proportioned according to flow at the time of sampling.
- d. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
- e. The "instantaneous maximum" shall be determined by the analysis of a single grab sample.
- f. "MGD", for monitoring requirements, is defined as million gallons per day.
- g. "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.

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 and collected the samples;
- 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 NPDES 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. Location of Discharge Points

Requests for modification of the the outfalls contained in Part IV of this permit may be will be processed as follows. If the requested modification satisfies the definition of a minor permit modification as defined in 40 CFR 122.63 modifications will not be required to be advertised in a public notice. A minor modification constitutes a correction of a typographical error, increase in monitoring and/or reporting, revision to an interim compliance schedule date, change in ownership, revision of a construction schedule for a new source discharger, deletion of permitted outfalls, and/or the incorporation of an approved local pretreatment program. A request for a minor modification must be initiated by the permittee.

- 001 The outfall from the Railroad Loop Reservoir which receives pit water, equipment and facilities wash down water and natural runoff. The pond is located in the SE, Section 16, T41N, R70W and discharges to Porcupine Creek.

- 003 The outfall from the North Antelope Shop Reservoir which receives pit water and outflow from the upstream 2B Reservoir. The reservoir is located in NENW, Section 21, T41N, R70W and discharges to Porcupine Creek.
- 015 The outfall from SP-7A Reservoir, which receives pit water, equipment and facilities wash down and natural runoff, located in the SWSE, Section 10, T41N, R70W and discharges into Red Fox Draw.
- 016 The outfall from SP-8 Reservoir, which receives equipment and facilities wash down water and natural runoff, is located in the SWSE, Section 10, T41N, R70W, discharges in to Coyote Draw.
- 017 The outfall from SP-9A Reservoir, which receives equipment and facilities wash down water and natural runoff, is located in the NENE, Section 15, T41N, R70W, discharges into Rattlesnake Draw.
- 018 The outfall from SP-10 Reservoir, which receives equipment and facilities was down water and natural runoff, is located in the SWNW, Section 15, T41N, R70W, discharges into Peabody Draw.
- 019 The outfall from SP-11B Reservoir, which receives pit water and disturbed area runoff, is located in the SESE, Section 10, T41N, R70W, discharges into Peabody Draw.020 The outfall from SP-41A Reservoir, which receives pit water and reclaimed area runoff, is located in the SWSW, Section 12, T41N R70W, discharges into Boltz Draw.021 The outfall from SP-42A Reservoir, which receives pit water and disturbed area runoff, is located in the NWSE, Section 12, T41N, R70W, discharges into Boltz Draw.
- 022 The outfall from SP-46 Reservoir, which receives pit water, reclaimed area runoff and disturbed area runoff, is located in the NWSW, Section 11, T41N, R70W, discharges into Peabody Draw.
- 023 The outfall from SP-47 Reservoir, which receives pit water, reclaimed area runoff and disturbed area runoff, is located in the NWSW Section 11, T41N, R70W, discharges into Peabody Draw.
- 024 The outfall from the SP-52 Reservoir, which receives pit water and reclaimed area runoff, is located in the NESE, Section 8, T41N, R70W, discharges into Boltz Draw.
- 026 (Deleted)
- 027 The outfall from the SP-5B Reservoir, which receives disturbed area runoff, located in the NWNE Section 20, T41N, R70W and discharges into Belden Draw.

90033-doc
08/02

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. A written submission shall be provided within five (5) days of the time that the permittee becomes aware of a noncompliance circumstance as described in paragraph b. above.

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, NPDES Program (307) 777-7781 by the first workday following the day the permittee 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 of the pollutants 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, Watershed Management Section, NPDES Program (307) 777-7781.
 - f. 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.

/pjb
83430-doc
02/01

