

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

**STATEMENT OF BASIS
RENEWAL**

APPLICANT NAME: Pennaco Energy Inc.

MAILING ADDRESS: 3601 Southern Drive
Gillette, WY 82718

FACILITY LOCATION: LS Draw – LX Bar, which is located in the SWSE, Section 21, the SENW and SWSE, Section 27, the SWNW, NWNW, NWNE, and SENW, Section 28, and the SENW, Section 29, Township 56 North, Range 75 West, Campbell County. The produced water will be discharged to various named, on-channel reservoirs (class 3B) located on several unnamed, ephemeral tributaries (class 3B) of LX Bar Creek (class 3B), LS Draw proper (class 3B), Bath Draw proper (class 3B), Goodrich Draw proper (class 3B), Wineland Draw proper (class 3B), and a naturally closed topographic depression (a playa lake) (class 3A). Two outfalls (004, and 005) discharge directly (no reservoir containment) to LS Draw (class 3B). Except for the playa lake, the waterbodies listed above are all tributary to the Powder River (class 2ABWW), via LX Bar Creek (class 3B). The permit requires that the produced water being discharged from this facility originate in one or more of the following formations: the Pawnee, Wall, Canyon, and/or Cook coal seams, and establishes a total maximum daily flow limit of 0.05 million gallons per day (MGD) for Option 2 discharges.

NUMBER: WY0039055

This permit has been renewed in accordance with current WYPDES permitting requirements. All permit effluent limits and monitoring requirements have been updated in accordance with current WDEQ regulations and policy. In addition, the permittee has requested that the following changes be made to this permit:

- 1. The locations of the water quality monitoring stations are updated.*
- 2. Eight (8) wells are removed and eighteen (18) wells are added to this facility.*
- 3. The effluent limit for total recoverable arsenic is updated from 7 µg/l to 8.4 µg/l in accordance with current WDEQ regulations.*
- 4. The required routine monitoring frequencies for chloride, alkalinity and bicarbonate are updated to annual.*

A. General Description

This facility is a typical coal bed methane production facility in which groundwater is pumped from a coal bearing formation resulting in the release of methane from the coal bed. The permit authorizes the discharge to the surface of groundwater produced in this way provided the effluent quality is in compliance with effluent limits that are established by this permit. In developing effluent limits, all federal and state regulations and standards have been considered and the most stringent requirements incorporated into the permit. The effluent limits established in this permit are based upon *Chapters 1 and 2 of the Wyoming Water Quality Rules and Regulations* and other evaluations conducted by WDEQ related to this industry. This permit does not cover activities associated with discharges of drilling fluids, acids, stimulation waters or other fluids derived from the drilling or completion of the wells.

B. Facility Description

1. Outfall Description— 002, 003, 006, 007 and 009 (Option 2)

For outfalls **002, 003, 006, 007, and 009** the permittee has chosen option 2 of the coal bed methane permitting options. Under permitting option 2, the produced water is immediately discharged to a class 2 or class 3 receiving stream which is eventually tributary to a class 2AB perennial water of the state. The permit establishes effluent limits for the end of pipe, which are protective of all the designated uses defined in *Chapter 1 of Wyoming Water Quality Rules and Regulations*. This may include drinking water, game and non-game fish, fish consumption, recreation, agriculture, wildlife, industry and scenic value.

The permittee is required to contain all effluent from outfalls **002, 003, 006, 007, and 009** only in a series of on-channel reservoirs at this facility, unless prior written authorization is granted by the WYPDES program for a reservoir release, in association with use of assimilative capacity credits for the Powder River Basin. In the event that such an authorization for release is granted for this facility, the authorization letter will specify the release volume, duration and individual reservoir(s) covered. In the absence of such written authorization for release, the following containment requirements will apply at the reservoirs: the permittee will be required to contain all produced water within a series of on-channel reservoirs during “dry” operating conditions. The permittee is authorized to release discharge from upstream on-channel reservoirs only. Water released from the upstream reservoirs will be allowed to cascade down to the lowermost on-channel reservoirs, identified as follows: “Loman”, “Wineland”, and “Bath”. This permit prohibits discharge of effluent from the lowermost reservoirs except during periods of time in which natural precipitation causes the lowermost reservoirs to overtop and spill. Intentional or draw-down type releases from the lowermost reservoirs will constitute a violation of this permit. Discharge from the reservoirs is limited by the permit to natural overtopping and shall not extend beyond a 48 hour period following commencement of natural overtopping. It is the responsibility of the permittee to adequately demonstrate the circumstances in which reservoir discharges occurred, if requested to do so by the WYPDES Program.

2. Outfall Description— 004 and 005 (Option 2-direct discharge)

Under permitting option 2 without containment the produced water is immediately discharged to a class 2, class 3, and/or class 4 receiving stream which is eventually tributary to a class 2AB perennial water of the state. The permit establishes effluent limits for the end of pipe, which are protective of all the designated uses defined in *Chapter 1 of Wyoming Water Quality Rules and Regulations*. This may include drinking water, game and non-game fish, fish consumption, recreation, agriculture, wildlife, industry and scenic value. Although irrigation has been identified on LX Bar Creek prior to confluence with the Powder River, changes in the manner in which the irrigation system operates have taken place since this permit was originally drafted. An irrigation diversion has been constructed which allows CBM flows to be diverted around the irrigated acreage. This structure has been constructed with the approval of the sole downstream irrigator, who has agreed that limits protective of irrigation are no longer necessary in CBM permits.

a. Between the issuance of this renewal and December 31, 2008 for outfalls 004, and 005, the permittee has committed to containing all produced water in the associated downstream channel prior to the confluence with the Powder River. Water will not reach the Powder River except in the case of a significant storm-event.

b. Beginning January 1, 2009 for outfalls 004, and 005, the permittee will be required to contain all effluent in an on-channel reservoir(s) at this facility, unless prior written authorization is granted by the WYPDES program for a reservoir release, in association with use of assimilative capacity credits for the Powder River Basin. In the event that such an authorization for release is granted for this facility, the authorization letter will specify the release volume, duration and individual reservoir(s) covered. In the absence of such written authorization for release, the following containment requirements will apply at the reservoirs: the permittee will be required to contain all produced water within a series of on-channel reservoirs during “dry” operating conditions. Intentional or draw-down type releases from the reservoirs will constitute a violation of this permit. Discharge from the reservoirs is limited by the permit to natural overtopping and shall not extend

beyond a 48 hour period following commencement of natural overtopping. It is the responsibility of the permittee to adequately demonstrate the circumstances in which reservoir discharges occurred, if requested to do so by the WYPDES Program.

3. Outfall Description—008 (Option 1B discharges)

The permittee has chosen option 1B of the coal bed methane permitting options for **outfall 008** only. Under Option 1B, the produced water is immediately discharged to a natural topographic depression or playa lake (class 3A water body). The permit establishes effluent limits for the end of pipe, which are protective of all designated uses of the class 3A receiving water defined in Chapter 1 of Wyoming Water Quality Rules and Regulations. This may include aquatic life other than fish, recreation, agriculture (livestock watering), wildlife, industry and scenic value.

The permittee has submitted information to demonstrate that all produced effluent from this facility will be contained in the natural playa. The water budget for this facility confirms that the playa will have sufficient capacity to contain all of the effluent from this facility as well as storm run-off from up to a 50-year / 24-hour event. This permit prohibits discharge of effluent from the playa except in the event of a 50-year / 24-hour storm event (*ref. "Isopluvials of 50-yr / 24-hr precipitation map," NOAA Atlas II, Volume II*) or greater. If a playa overtopping event occurs, verification of storm magnitude will be the responsibility of the permittee. Discharge from the playa resulting from a 50-year / 24-hour storm event or greater is limited by the permit to natural overtopping and shall not extend beyond a 48 hour period following commencement of natural overtopping. Additional release from the playa is not authorized. If any effluent discharged from this facility does overtop the playa lake, this permit requires the permittee to cease all discharge of effluent from the contributing wells until the effluent is no longer overtopping. Any effluent from this facility that overtops the playa, except as the direct result of the playa overtopping during a 50-year / 24-hour storm event or greater, will be considered a violation of this permit and must be corrected by the permittee immediately. This permit does not establish effluent limits that are protective of all designated uses associated with the downstream waters.

This permit establishes a monitoring station on LX Bar Creek prior to confluence with the Powder River. This station will function to monitor any effluent flows to the Powder River.

C. Effluent Limits and Monitoring Requirements

1. Outfalls 002, 003, 004, 005, 006, 007 and 009 (Option 2)

a. Effluent Limits: Permit effluent limits are based on federal and state regulations and are effective as of the date of issuance. The permit requires that the pH must remain within 6.5 and 9.0 standard units. An effluent limit for specific conductance (7500 micromhos/cm) is included to protect for stock and wildlife watering. This limit is based upon *Wyoming Water Quality Rules and Regulations, Chapter 1* and applies to discharge from any permitted outfall. In addition, the permit establishes a total barium limit of 1800 µg/l, a chloride limit of 150 mg/l, and a total arsenic limit of 8.4µg/l. These limits are based on chronic aquatic life standards for class 2AB waters which are intended to protect for the above listed designated uses and reflect the application of the antidegradation provisions required under *Chapter 1 of the Wyoming Water Quality Rules and Regulations*. The permit also establishes a dissolved iron effluent limit of 1000 µg/l to be met at the end of pipe. The dissolved iron effluent limits is based upon chronic aquatic life protection for class 3B waters, and does not consider the antidegradation provisions under *Chapter 1 of the Wyoming Water Quality Rules and Regulations*, as dissolved iron has been determined to be a non-persistent pollutant, and all the outfalls being authorized for discharge in this permit renewal are located more than one stream mile from confluence with the nearest class 2 water, in this case, the Powder River. This approach reflects current WYPDES permitting practice in regards to establishing dissolved iron effluent limits in CBM surface discharge permits.

b. Monitoring Requirements: Self monitoring results are to be reported twice-yearly and if no discharge occurs at the outfall then "no discharge" is to be reported. The permit also requires that an initial monitoring of

the effluent be conducted within the first 60 days of discharge and the results submitted to WDEQ and the U.S. Environmental Protection Agency within 120 days of the commencement of discharge.

The permit requires sampling at a designated tributary water quality monitoring station located on LX Bar Creek, and at two mainstem water quality monitoring locations on the Powder River upstream and downstream of the confluence of LX Bar Creek and the Powder River. Water quality monitoring stations on the Powder River must be located in the main channel of the Powder River outside of the mixing zone of LX Bar Creek and the Powder River. Effluent samples at the designated water quality monitoring stations must be collected on a monthly basis and are to be reported semiannually. If flow occurs at the tributary water quality monitoring station designated in Table 1 of the following permit as "TRIB1" during a given monthly monitoring period, but this CBM facility did not contribute to that flow, the permittee will report "did not contribute" in the discharge monitoring reports for that monthly monitoring period. Under such circumstances, sampling is not required at the associated mainstem water quality monitoring stations, and it will be the responsibility of the permittee to demonstrate that the effluent from this facility did not contribute to the flow occurring at the tributary water quality monitoring station. If no flow at all occurs at the tributary water quality monitoring station designated as "TRIB1" for an entire monthly monitoring period, then "no flow" is to be reported and samples need not be collected at the associated mainstem and tributary water quality monitoring stations for that monthly monitoring period.

At the designated water quality monitoring stations, monitoring will be required for calcium, magnesium, sodium, sodium adsorption ratio, and specific conductance. Information gathered from the water quality monitoring stations may result in modification of the permit to protect existing uses on the tributary and mainstem.

2. Effluent Limits and Monitoring Requirements— Outfall 008 (Option 1B discharges)

Permit effluent limits are based on federal and state regulations and are effective as of the date of issuance. The pH of the effluent must remain within 6.5 and 9.0 standard units. Effluent limits for specific conductance (7,500 micromhos/cm) and chlorides (2,000 mg/l) are included to protect for stock and wildlife watering. These limits are based upon Wyoming Water Quality Rules and Regulations, Chapter 2 and apply to discharge from any permitted outfall. In addition, the permit establishes a dissolved iron limit of 1000 µg/l and a total recoverable selenium limit of 5 µg/l. The total recoverable selenium limit is based on standards for class 3A waters which are intended to protect for the above listed designated uses and reflect the application of "tier 1" antidegradation protection. Tier 1 antidegradation protection is the basic level of protection which applies to all waters of the state, as described in the Wyoming Surface Water Quality Standards "Implementation Policies for Antidegradation." The dissolved iron effluent limit is based upon chronic aquatic life protection for class 3B waters, and does not consider the antidegradation provisions under *Chapter 1 of the Wyoming Water Quality Rules and Regulations*, as dissolved iron has been determined to be a non-persistent pollutant, and all the outfalls being authorized for discharge in this permit renewal are located more than one stream mile from confluence with the nearest class 2 water, in this case, the Powder River. This approach reflects current WYPDES permitting practice in regards to establishing dissolved iron effluent limits in CBM surface discharge permits. Based upon the results of the initial monitoring, this permit may be reopened and more stringent limits and/or monitoring and reporting required.

Results are to be reported twice-yearly and if no discharge occurs at a particular outfall for an entire sampling period, then "no discharge" is to be reported for that outfall during that period. The permit also requires that an initial monitoring of the effluent be conducted within the first 60 days of discharge and the results submitted to WDEQ and the U.S. Environmental Protection Agency within 120 days of the commencement of discharge.

In order to monitor potential accumulation of pollutants within the receiving playa, this permit (Part I.A.2.c) requires routine sampling, analysis, and reporting for the following constituents within the playa itself: total dissolved solids, specific conductance, chloride, dissolved fluoride, pH, sulfate, and total recoverable selenium. Sampling for these constituents within the playa is to occur a minimum of 50 feet from the location where the CBM

effluent enters the playa. The playa monitoring location has been identified in Table 1 as “CU1”. This monitoring requirement is intended to aid in the protection of the uses associated with the class 3A playa (aquatic life other than fish, recreation, livestock watering, wildlife, industry and scenic value). If this monitoring of the effluent within the playa reveals an exceedance of any applicable standards for class 3A waters, then this permit may be modified in order to protect all uses of the receiving water body.

The permit requires the permittee to install a staff gage within each option 1 containment unit at this facility. The staff gage must mark the elevation of the 50-year / 24-hour storm freeboard capacity within each containment unit. The permittee will be required to maintain effluent levels within each containment unit at or below that elevation. Should the volume of water within the reservoirs exceed the freeboard needed to contain runoff from a 50-year / 24-hour precipitation event, the permittee is required to cease discharge into these reservoirs until the volume of water within the reservoir drops back below the 50-year / 24-hour freeboard reserve.

D. General Permit Requirements

There shall be no discharge of floating solids or visible foam in other than trace amounts, nor shall the discharge cause formation of visible deposits of iron, hydrocarbons or any other constituent on the bottom or shoreline of the receiving water. In addition, erosion control measures will be implemented to prevent significant damage to or erosion of the receiving water channel at the point of discharge.

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.

Self monitoring of effluent quality and quantity is required on a regular basis with reporting of results semiannually. The permit is scheduled to expire on June 30, 2011, which is reflective of the WDEQ’s efforts towards watershed permitting and similar expiration dates for all permits within a specific drainage, which will allow for basin-wide analysis upon renewal of the permits in the drainage. Having all permits in the drainage expire at the same time will allow for basin-wide analysis of impacts due to these discharges upon renewal of these permits, and will allow the WDEQ to adopt a more holistic, watershed-based permitting approach.

Documentation submitted in support of this permit by the permittee was based upon water quality representative of water quality from the Pawnee, Wall, Canyon, and/or Cook coal seams coal seams in the surrounding geographical area, and a total maximum daily discharge rate of 0.05 million gallons per day (MGD) for direct discharge outfalls. Therefore, the permit requires that the produced water being discharged by this facility originate in one or more of the following formations: the Pawnee, Wall, Canyon, and/or Cook coal seams, and establishes a total maximum daily flow limit of 0.05 MGD for the calculated sum of all direct discharge outfalls (**004, and 005**) on this permit.

Kathy Shreve
Water Quality Division
Department of Environmental Quality
Drafted: February 24, 2006

Dena Egenhoff—Renewal
Water Quality Division
Department of Environmental Quality
Drafted: February 4, 2008

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,

Pennaco Energy, Inc.,

is authorized to discharge from the wastewater treatment facilities serving the

LS Draw – LX Bar,

which is located in

the SWSE, Section 21, the SENW and SWSE, Section 27, the SWNW, NWNW, NWNE, and SENW, Section 28, and the SENW, Section 29, Township 56 North, Range 75 West, Campbell County,


to receiving waters named

various named, on-channel reservoirs (class 3B) located on several unnamed, ephemeral tributaries (class 3B) of LX Bar Creek (class 3B), LS Draw proper (class 3B), Bath Draw proper (class 3B), Goodrich Draw proper (class 3B), Wineland Draw proper (class 3B), and a naturally closed topographic depression (a playa lake) (class 3A). Two outfalls (004, and 005) discharge directly (no reservoir containment) to LS Draw (class 3B). Except for the playa lake, the waterbodies listed above are all tributary to the Powder River (class 2ABWW), via LX Bar Creek (class 3B)

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


The original permit was issued on September 11, 2006 and expires on June 30, 2008 at midnight. This permit renewal shall become effective on **July 1, 2008**.

This permit and the authorization to discharge shall expire June 30, 2011 at midnight.


John E. Wagner
Administrator - Water Quality

Date

5/14/08


John V. Corra
Director - Department of Environmental Quality

Date

5/15/08

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Effective **July 1, 2008** and lasting through June 30, 2011, 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(s) serial numbers 002 - 009.

1a. Discharges from outfalls 002, 003, 004, 005, 006, 007 and 009 shall be limited as specified below:

Effluent Limits

<u>Effluent Characteristic</u>	<u>Daily Maximum, Outfalls</u>
Chlorides , mg/l	150
pH , standard units	6.5 – 9.0
Specific Conductance , micromhos/cm	7500
Total Recoverable Arsenic , µg/l	8.4
Total Recoverable Barium , µg/l	1800
Total Flow , MGD* (outfalls 004, and 005)	0.05
Dissolved Iron , µg/l	1000

- Note: 1) 'Dissolved' value for metals refers to the amount that will pass through a 0.45 µm membrane filter prior to acidification to 1.5-2.0 with Nitric Acid.
- 2) 'Total' value for metals refers to the total recoverable amount of that metal in the water column.

The permittee is required to contain all effluent from outfalls **002, 003, 006, 007 and 009** only in a series of on-channel reservoirs at this facility, unless prior written authorization is granted by the WYPDES program for a reservoir release, in association with use of assimilative capacity credits for the Powder River Basin. In the event that such an authorization for release is granted for this facility, the authorization letter will specify the release volume, duration and individual reservoir(s) covered. In the absence of such written authorization for release, the following containment requirements will apply at the reservoirs: the permittee will be required to contain all produced water within a series of on-channel reservoirs during “dry” operating conditions. The permittee is authorized to release discharge from upstream on-channel reservoirs only. Water released from the upstream reservoirs will be allowed to cascade down to the lowermost on-channel reservoirs, identified as follows: “Loman”, “Bath”, and “Wineland”. This permit prohibits discharge of effluent from the lowermost reservoirs except during periods of time in which natural precipitation causes the lowermost reservoirs to overtop and spill. Intentional or draw-down type releases from the lowermost reservoirs will constitute a violation of this permit. Discharge from the reservoirs is limited by the permit to natural overtopping and shall not extend beyond a 48 hour period following commencement of natural overtopping. It is the responsibility

of the permittee to adequately demonstrate the circumstances in which reservoir discharges occurred, if requested to do so by the WYPDES Program.

1b. For outfalls 004 and 005:

a. Between the issuance of this renewal and December 31, 2008 for outfalls 004 and 005, the permittee has committed to containing all produced water in the associated downstream channel prior to the confluence with the Powder River. Water will not reach the Powder River except in the case of a significant storm-event.

b. Beginning January 1, 2009 for outfalls 004 and 005, the permittee will be required to contain all effluent in an on-channel reservoir(s) at this facility, unless prior written authorization is granted by the WYPDES program for a reservoir release, in association with use of assimilative capacity credits for the Powder River Basin. In the event that such an authorization for release is granted for this facility, the authorization letter will specify the release volume, duration and individual reservoir(s) covered. In the absence of such written authorization for release, the following containment requirements will apply at the reservoirs: the permittee will be required to contain all produced water within a series of on-channel reservoirs during “dry” operating conditions. Intentional or draw-down type releases from the reservoirs will constitute a violation of this permit. Discharge from the reservoirs is limited by the permit to natural overtopping and shall not extend beyond a 48 hour period following commencement of natural overtopping. It is the responsibility of the permittee to adequately demonstrate the circumstances in which reservoir discharges occurred, if requested to do so by the WYPDES Program.

1c. Outfall 008 (Option 1B discharge)

Effluent Limits

<u>Effluent Characteristic</u>	<u>Daily Maximum</u>
Dissolved Iron , µg/l	1000
pH , standard units	6.5 – 9.0
Specific Conductance , micromhos/cm	7500
Total Recoverable Selenium , µg/l	5
Dissolved Chlorides , mg/l	2000

- Note:
- 1) 'Dissolved' value for metals refers to the amount that will pass through a 0.45 µm membrane filter prior to acidification to 1.5-2.0 with Nitric Acid.
 - 2) 'Total' value for metals refers to the total recoverable amount of that metal in the water column.

This permit prohibits discharge of effluent from the playa except in the event of a 50-year / 24-hour storm event (*ref.* “*Isopluvials of 50-yr / 24-hr precipitation map,*” *NOAA Atlas II, Volume II*) or greater. If a playa overtopping event occurs, verification of storm magnitude will be the responsibility of the permittee. Discharge from the playa resulting from a 50-year / 24-hour storm event or greater is limited by the permit to natural overtopping and shall not extend beyond a 48 hour period following commencement of natural overtopping. Additional release from the playa is not authorized. If any effluent discharged from this facility does overtop the playa lake, this permit requires the permittee to cease all discharge of effluent from the contributing wells until the effluent is

no longer overtopping. Any effluent from this facility that overtops the playa, except as the direct result of the playa overtopping during a 50-year / 24-hour storm event or greater, will be considered a violation of this permit and must be corrected by the permittee immediately.

The permit requires the permittee to install a staff gage within each option 1 containment unit at this facility. The staff gage must mark the elevation of the 50-year / 24-hour storm freeboard capacity within each containment unit. The permittee will be required to maintain effluent levels within each containment unit at or below that elevation. Should the volume of water within the reservoirs exceed the freeboard needed to contain runoff from a 50-year / 24-hour precipitation event, the permittee is required to cease discharge into these reservoirs until the volume of water within the reservoir drops back below the 50-year / 24-hour freeboard reserve.

1d. Additional Permit Requirements Applicable to All Permitted Outfalls (002-009):

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

The produced water will originate from the Pawnee, Wall, Canyon, and/or Cook coal seams. The permittee is authorized to discharge from all wells to all permitted outfalls, provided all effluent limits and other permit conditions can be met.

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 hydrocarbon 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. 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.

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

a. Monitoring of the initial discharge

Note: The initial monitoring requirement outlined below will not apply to outfalls already sampled for these parameters under previous permit coverage.

Within 60 days of commencement of discharge following issuance of this permit renewal, a sample shall be collected from each outfall and analyzed for the constituents specified below, at the required detection limits. Within 120 days of commencement of discharge, a summary report on the produced water must be submitted to the Wyoming Department of Environmental Quality and the U.S. EPA Region 8 at the addresses listed below. This summary report must include the results and detection limits for each of the constituents listed below. In addition, the report must include written notification of the established location of the discharge point (refer to Part I.B.11). This notification must include a confirmation that the location of the established discharge point(s) is within 1,510 feet of the location of the

identified discharge point(s), is within the same drainage, and discharges to the same landowner's property as identified on the original application form. The legal description and location in decimal degrees of the established discharge point(s) must also be provided. After receiving the monitoring results for the initial discharge, the effluent limits and monitoring requirements established in this permit may be modified.

<u>Parameter*</u> (See notes following the table on chemical states)	<u>Required Detection Limits and Required Units</u>
Alkalinity, Total	1 mg/l as CaCO ₃
Aluminum, Dissolved	50 µg/l
Arsenic, Total Recoverable	1 µg/l
Barium, Total Recoverable	100 µg/l
Bicarbonate	10 mg/l
Cadmium, Dissolved	5 µg/l
Calcium, Dissolved	50 µg/l, report as mg/l
Chlorides	5 mg/l
Copper, Dissolved	10 µg/l
Dissolved Solids, Total	5 mg/l
Fluoride, Dissolved	100 µg/l
Hardness, Total	10 mg/l as CaCO ₃
Iron, Dissolved	50 µg/l
Lead, Dissolved	2 µg/l
Magnesium, Dissolved	100 µg/l, report as mg/l
Mercury, Dissolved	1 µg/l
pH	to 0.1 pH unit
Radium 226, Total Recoverable	0.2 pCi/l
Selenium, Total Recoverable	5 µg/l
Sodium Adsorption Ratio	Calculated as unadjusted ratio
Sodium, Dissolved	100 µg/l, report as mg/l
Specific Conductance	5 micromhos/cm
Sulfates	10 mg/l
Zinc, Dissolved	50 µg/l

TOTAL: Value is expressed in terms of total recoverable metal in the water column.

NOTE: Except for aquatic life values for metals and where otherwise indicated, the values given refer to the total recoverable (dissolved plus suspended) amount for each substance. For the aquatic life values for metals, the values refer to the dissolved amount.

DISSOLVED: Value is based on the dissolved amount which is the amount that will pass through a 0.45 µm membrane filter prior to acidification to pH 1.5 - 2.0 with nitric acid.

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

Planning and Targeting Program, 8ENF-PT
Office of Enforcement, Compliance, and Environmental Justice
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

and

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

b. Routine monitoring End of Pipe – (002, 003, 004, 005, 006, 007 & 009)

For the duration of the permit, at a minimum, samples for the constituents described below shall be collected at the indicated frequencies. The first routine monitoring for the time frame during which the monitoring of initial discharge occurs will, at a minimum, consist of flow measurements for the duration of the six-month monitoring time frame. Monitoring will be based on semi-annual time frames, from January through June, and from July through December.

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Bicarbonate (mg/l)	Annually	Grab
Dissolved calcium (mg/l)	Monthly	Grab
Chloride (mg/l)	Annually	Grab
Dissolved Iron (µg/l)	Annually	Grab
Dissolved Magnesium (mg/l)	Monthly	Grab
pH (standard units)	Once Every Six Months	Grab
Dissolved Sodium (mg/l)	Monthly	Grab
Sodium Adsorption Ratio (unadjusted)	Monthly	Calculated
Specific Conductance (micromhos/cm)	Monthly	Grab
Total Alkalinity (mg/l)	Annually	Grab
Total Recoverable Arsenic (µg/l)	Quarterly	Grab
Total Recoverable Barium (µg/l)	Annually	Grab
Total Flow - (MGD)	Monthly	Continuous

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Total Dissolved Solids (mg/l)	Monthly	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.

c. Routine monitoring End of Pipe (008)

For the duration of the permit, at a minimum, samples for the constituents described below shall be collected at the indicated frequencies. The first routine monitoring for the time frame during which the monitoring of initial discharge occurs will, at a minimum, consist of flow measurements for the duration of the six-month monitoring time frame. Monitoring will be based on semi-annual time frames, from January through June, and from July through December.

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Chloride (mg/l)	Annually	Grab
Dissolved Iron (µg/l)	Annually	Grab
pH (standard units)	Once Every Six Months	Grab
Specific Conductance (µmhos/cm)	Annually	Grab
Total Recoverable Selenium (µg/l)	Annually	Grab
Total Flow - (MGD)	Monthly	Continuous
Total Dissolved Solids (mg/l)	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.

d. Routine Monitoring Within Playa (CU1)

For the duration of the permit, at a minimum, samples for the constituents described below shall be collected at the indicated frequencies. Monitoring and reporting will be based on an annual time frame.

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Total Dissolved Solids (mg/l)	Annually	Grab
Specific Conductance (µmhos/cm)	Annually	Grab

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Chlorides (mg/l)	Annually	Grab
Total Recoverable Selenium (µg/l)	Annually	Grab
Sulfate (mg/l)	Annually	Grab
Dissolved Fluoride (µg/l)	Annually	Grab
pH (standard units)	Annually	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): designated playa monitoring station located as described in Table 1. Monitoring location is to be located a minimum of 50 feet away from the point where CBM effluent enters the playa. Results are to be reported annually.

e. Water Quality Monitoring Station (TRIB1, UPR, DPR)

For the duration of the permit, at a minimum, samples for the constituents described below shall be collected at the indicated frequencies. Monitoring will be based on monthly time frames, and reported semiannually.

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Dissolved Calcium (mg/l)	Monthly	Grab
Dissolved Magnesium (mg/l)	Monthly	Grab
Dissolved Sodium (mg/l)	Monthly	Grab
Sodium Adsorption Ratio (calculated as unadjusted ratio)	Monthly	Calculated
Specific Conductance (micromhos/cm)	Monthly	Grab
Flow (MGD)	Monthly	Instantaneous

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations: TRIB1, UPR, DPR listed in Table 1, Part I.B. 13 of the permit below. Effluent samples at the designated water quality monitoring stations must be collected on a monthly basis and are to be reported semiannually. If flow occurs at the tributary water quality monitoring station (TRIB1, location listed in Table 1 of the permit) during a given monthly monitoring period, but this CBM facility did not contribute to that flow, the permittee will report “did not contribute” in the discharge monitoring reports for that monthly monitoring period. Under such circumstances, sampling is not required at the associated mainstem water quality monitoring stations, and it will be the responsibility of the permittee to demonstrate that the effluent from this

facility did not contribute to the flow occurring at the tributary water quality monitoring station. If no flow at all occurs at the tributary water quality monitoring station designated as "TRIB1" for an entire monthly monitoring period, then "no flow" is to be reported and samples need not be collected at the associated mainstem and tributary water quality monitoring stations for that monthly monitoring period.

At the designated water quality monitoring stations, monitoring will be required for calcium, magnesium, sodium, sodium adsorption ratio and specific conductance. Information gathered from the water quality monitoring stations may result in modification of the permit to protect existing uses on the tributary and mainstem.

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

2. Reporting

Results of initial monitoring, including the date the discharge began, shall be summarized on a Monitoring Report Form for Monitoring of Initial Discharge and submitted to the state water pollution control agency at the address below postmarked no later than 120 days after the commencement of discharge.

Results of routine end of pipe, containment unit water quality monitoring point, and water quality station monitoring during the previous six (6) months shall be summarized and reported semiannually on a Discharge Monitoring Report Form (DMR). If the discharge is intermittent, the date the discharge began and ended must be included. The information submitted on the first semiannual DMR shall contain a summary of flow measurements and any additional monitoring conducted subsequent to the submittal of the initial monitoring report. When required, whole effluent toxicity (biomonitoring) results must be reported on the most recent version of EPA Region VIII's Guidance for Whole Effluent Reporting. Monitoring reports must be submitted to the state water pollution control agency at the following address postmarked no later than the 15th day of the second month following the completed reporting period. The first report following the issuance of this renewal is due on February 15, 2009.

Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements contained in Part II.A.11.

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. 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.
- b. 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.
- c. The "daily maximum" shall be determined by the analysis of a single grab or composite sample.
- d. "MGD", for monitoring requirements, is defined as million gallons per day.
- 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.
- f. A "composite" sample, for monitoring requirements, is defined as a minimum of four grab samples collected at equally spaced two hour intervals and proportioned according to flow.
- g. An "instantaneous" measurement for monitoring requirements is defined as a single reading, measurement, or observation.
- 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.
- i. "Total Flow" is the total volume of water discharged, measured on a continuous basis and reported as a total volume for each month during a

reporting period. The accuracy of flow measurement must comply with Part III.A.1.

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 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 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 each outfall and flow monitoring locations (points of compliance). This sign shall, as a minimum, convey the following information:

- a. The name of the company, corporation, person(s) who holds the discharge permit, and the WYPDES permit number;
- b. The contact name and phone number of the person responsible for the records associated with the permit;
- c. The name of the facility (lease, well number, etc.) and the outfall number as identified by the discharge permit.

11. Identification and Establishment of Discharge Points

According to 40 CFR 122.21(k)(1), the permittee shall identify the expected location of each discharge point on the appropriate WYPDES permit application form. The location of the discharge point must be identified to within an accuracy of 15 seconds. This equates to a distance of 1,510 feet.

Public notice is not required if the location of the established discharge point is within 1,510 feet of the location of the discharge point originally identified on the permit application. In addition, the discharge must be within the same drainage and must discharge to the same landowner's property as identified on the original application form. If the three previously stated requirements are not satisfied, modification of the discharge point location(s) constitutes a major modification of the permit as defined in Part I.B.12. The permittee shall provide written notification of the establishment of each discharge point in accordance with Part I.A.2.a above.

12. Location of Discharge Points, Irrigation Monitoring Points and water quality monitoring stations

As of the date of permit issuance, authorized points of Discharge Points, Irrigation Monitoring Points and water quality monitoring stations were as follows:

Table 1: WY0039055-LS Draw-LX Bar

Out-fall	Qtr/Qtr	SEC-TION	TWP (N)	RNG (W)	LATITUDE	LONGITUDE	Drainage / Description	Groundwater approval required prior to Discharge?	Reservoir Bond to WDEQ Required prior to Discharge?
*002	SWNW	28	56	75	44.802510	-105.902370	Powder River (2ABWW) via LX Bar Creek (3B) via LS Draw (3B) via on-channel reservoirs "CMS LS Draw Project Sec. 28A" , "CMS LS Draw Project 28B" and "Loman" (3B)	No	Yes
003	NWNW	28	56	75	44.808774	-105.903171	Powder River (2ABWW) via LX Bar Creek (3B) via unnamed ephemeral tributary (3B) via on-channel reservoirs "CMS LS Draw Project Sec. 21A", "CMS LS Draw Project 21B" and "Bath" (3B)	No	Yes for CMS LS Draw Project 21B, only
*004	SWSE	21	56	75	44.812590	-105.890202	Powder River (2ABWW) via LX Bar Creek (3B) via LS Draw (3B) via unnamed ephemeral tributary (3B)	N/A	N/A
*005	NWNE	28	56	75	44.808008	-105.892711	Powder River (2ABWW) via LX Bar Creek (3B) via LS Draw (3B) via unnamed ephemeral tributary (3B)	N/A	N/A
*006	SENW	28	56	75	44.802150	-105.894382	Powder River (2ABWW) via LX Bar Creek (3B) via LS Draw (3B) via unnamed ephemeral tributary (3B) via on-channel reservoir "Loman" (3B)	No	No
007	SENW	29	56	75	44.804633	-105.916726	Powder River (2ABWW) via LX Bar Creek (3B) via LS Draw (3B) via Goodrich Draw (3B) via on-channel reservoir "Goodrich" (3B)	No	Yes
008	SENW	27	56	75	44.803928	-105.877182	Powder River (2ABWW) via LX Bar Creek (3B) via LS Draw (3B) via topographically isolated natural playa "Buffalo Wallow" (3B)	No	No
009	SWSE	27	56	75	44.798450	-105.869290	Powder River (2ABWW) via LX Bar Creek (3B) via Reservoir Creek (3B) via Wineland Draw (3B) via on-channel reservoir "Wineland" (3B)	No	No
DPR	SWSE	12	57	76	44.933964	-105.949359	Downstream Powder River monitoring station (below LX Bar)	N/A	N/A
TRIB1	NWSE	14	57	76	44.922193	-105.966119	Tributary monitoring station LX Bar	N/A	N/A
UPR	SWNW	16	57	76	44.926801	-106.011640	Upstream Powder River monitoring station (above LX Bar)	N/A	N/A
CU1	SENW	27	56	75	44.803928	-105.877182	Containment unit monitoring station serving outfall 008	N/A	N/A

**Note: Asterisk denotes outfalls for which WDEQ has field-verified the latitude and longitude locations. These are considered to be the most accurate location data available for these outfalls, and will supersede latitude and longitude values presented in the application*

Requests for modification of the above list 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 by completing the form titled Wyoming Pollutant Discharge Elimination System Permit Modification Application For Coal Bed Methane. Incomplete application forms will be returned to the applicant.

The outfalls listed in Table 1 (located at the end of Part I) may be moved from the established location without submittal of a permit modification application provided all of the following conditions are satisfied:

1. The new outfall location is within 2640 feet of the established outfall location.
2. The new outfall location is within the same drainage or immediate permitted receiving waterbody.
3. There is no change in the affected landowners.
4. Notification of the change in outfall location must be provided to the WYPDES Permits Section on a form provided by the WQD Administrator within 10 days of the outfall location change. The form must be provided in duplicate and legible maps showing the previous and new outfall location must be attached to the form.

Moving an outfall location without satisfying the four above listed conditions will be considered a violation of this permit and subject to full enforcement authority of the WQD.

An outfall relocation as described above will not be allowed if the new outfall location is less than one mile from the confluence of a Class 2 waterbody and the dissolved iron limits established in the permit for the outfall are based upon Class 3 standards.

C. RESERVOIR / IMPOUNDMENT REQUIREMENTS

1. Groundwater Monitoring Beneath Impoundments:

Table 1 of the permit above identifies which outfalls (if any) are designed to discharge into impoundments that are subject to groundwater monitoring requirements established in the latest version of the Water Quality Division guideline "*Compliance Monitoring for Groundwater Protection Beneath Unlined Coalbed Methane Produced Water Impoundments.*" These specified outfalls are not authorized to discharge until a written groundwater compliance approval has been granted by the Groundwater Pollution Control Program of the Water Quality Division. A groundwater compliance approval will consist of either a final approved groundwater compliance monitoring plan, or written authorization for an exemption thereof. Once an impoundment has been granted a written groundwater compliance approval, the contributing outfall(s) to that reservoir may commence discharge.

2. Reclamation Performance Bonds for On-Channel Reservoirs:

Table 1 of the permit above also identifies which outfalls (if any) are designed to discharge into impoundments that are subject to WDEQ bonding requirements, as set forth in the latest version of the Water Quality Division guideline "*Implementation Guidance for Reclamation and Bonding of On-Channel Reservoirs That Store Coalbed Natural Gas Produced Water.*" These specified

outfalls are not authorized to discharge until the associated reservoir reclamation bond is approved by WDEQ. Once the reservoir reclamation bond is approved by WDEQ, the contributing outfall(s) to that reservoir may commence discharge. Any discharge into an above-listed impoundment which has not been secured by the required WDEQ-approved bond, or which has not been granted the required groundwater compliance approval, will constitute a violation of this permit, and may result in enforcement action from the Water Quality Division.

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 recurrence 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 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, NPDES 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, 1595 Wynkoop Street, Denver, CO 80202-1129.
- 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 January 1st through December 31st. 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.

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.
- i. If new, additional or more stringent permit conditions are necessary for control of erosion downstream of the discharges to ensure protection of water quality standards.

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 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.