

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

STATEMENT OF BASIS

RENEWAL

APPLICANT NAME: Pinnacle Gas Resources, Inc.

MAILING ADDRESS: 1 East Alger, Suite 206
Sheridan, WY 82801

FACILITY LOCATION: Butcher CBM Facility, which is located in the SWNW, SWSE of Section 19, Township 53 North, Range 73 West, in Campbell County. The produced water will be discharged to Boruff Draw (class 3B) and to Campbell Draw (class 3B), both of which are tributary to North Fork Wildcat Creek (class 3B) which is tributary to the Little Powder River (class 2AB) via Wildcat Creek (class 3B). The established attenuation zone terminus point (AZTNF) is located downstream of the outfalls in the SWSW of Section 20 in Township 53 North, Range 73 West (respectively), prior to the first downstream point of irrigation diversion/use on North Fork Wildcat Creek. The permit requires that the produced water being discharged by this facility originate in one or more of the following formations: the Cook, Canyon, Wall, and/or Pawnee coal seams.

NUMBER: WY0053961

This permit has been updated during the renewal process in accordance with current WDEQ regulations, policies, and permitting requirements. As part of this renewal, the permittee has requested that language requiring containment up to the 100 year/24-hour storm event be removed from this permit. Therefore, this permit has been modified to include effluent limits and monitoring requirements protective for direct discharges into Wildcat Creek.

This facility is a 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. The Wyoming DEQ has determined through review of the permit application that effluent discharged at this facility is of sufficient quality to be used by livestock and/or wildlife and that the effluent will actually be put to such use during periods of discharge. This facility is located approximately 25 miles from the Little Powder River and approximately three miles from the first downstream point of irrigation diversion (DIV1). DIV1 is located on North Fork Wildcat Creek in the SWSE of Section 21, Township 53 North, Range 73 West.

Effluent Limits (Protection of Class 2 and Class 3 waters)

The permittee has chosen option 2 of the coal bed methane permitting options. Under this permitting option, the produced water is immediately discharged to a class 2 or 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 the Wyoming Water Quality Rules and Regulations. This may include drinking water, game and non-game fish, fish consumption, aquatic life other than fish, recreation, agriculture, wildlife, industry and scenic value.

Permit effluent limits are based on federal and state regulations and are effective as of the date of issuance. The pH must remain within 6.5 and 9.0 standard units. Effluent limits for total dissolved solids (5,000 mg/l), specific conductance (7,500 micromhos/cm), and sulfates (3,000 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 the following water quality based effluent limits at each outfall: a radium 226 limit of 5 pCi/l, a dissolved iron limit of 1000 µg/l, a dissolved manganese limit of 718 µg/l, a total barium limit of 1800 µg/l, a total arsenic limit of 4.1 µg/l, a chlorides limit of 46 mg/l, a dissolved copper limit of 14.6 µg/l, and a dissolved lead limit of 7.7 µg/l. These limits are based on standards for class 3B and 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.

Irrigation Protection

In order to monitor and regulate coal bed methane discharge for compliance with Chapter 1, Section 20 (protection of agricultural water supply), effluent limits for sodium adsorption ratio (SAR) and specific conductance are included in this permit. Water quality based effluent limits for SAR and specific conductance are effective during any weekly monitoring period in which irrigable flow is present at the first downstream point of irrigation diversion (DIV1). DIV1 is a spreader dam located in the main channel of North Fork Wildcat Creek in the SWSE of Section 21, Township 53 North, Range 73 West. This spreader dam was determined by DEQ to be the most hydraulically constricting irrigation point downstream of the CBM facility. Based on a channel hydraulic survey at this spreader dam, the estimated maximum flow capacity through the spreader dam is just under 20 cubic feet per second (cfs). Channel flows at or above 20 cfs at location DIV1 will result in overbank flooding into adjacent hay fields. Other surveyed spreader dams on Wildcat Creek downstream of the CBM facility are estimated to have maximum flow capacities of 25 cfs and 30 cfs. Therefore DEQ has determined that for the portion

of North Fork Wildcat Creek downstream of this CBM facility, when flow in North Fork Wildcat Creek reaches 20 cfs, DIV1 is the first point of irrigation diversion that will spread water over the fields at a volume that will result in significant irrigation, even if the flow is unrestrained. Any flow in North Fork Wildcat Creek at DIV1 equal to or exceeding 20 cfs is considered to be irrigable flow for the purpose of complying with the conditions of this permit.

In addition, the permit establishes one attenuation zone, which is a segment of the receiving streams beginning at the outfalls and extending downstream to terminus point located in the SWSW of Section 20 in Township 53 North, Range 73 West (AZT North Fork Wildcat Creek). The attenuation zone terminus point (AZTNF) is a designated monitoring location on North Fork Wildcat Creek, upstream of the first downstream point of irrigation diversion/use on North Fork Wildcat Creek (DIV1). During sampling periods when irrigable flow is present at DIV1 (≥ 20 cfs), the permit establishes an effluent limit for sodium adsorption ratio (SAR) at the AZT location. The effluent limit for SAR at each AZT is $(7.10 \times \text{EC dS/m}) - 2.48$, where EC dS/m is the specific conductance of the effluent at the respective AZT, in the same sample being analyzed for SAR.

This effluent limit for SAR at the attenuation zone terminus point was derived from Figure 3 of the USDA "Agricultural Salinity and Drainage" handbook, Hanson et al., 1999 revision. The effluent limit for SAR in this permit is intended to prevent a reduction in soil permeability within the downstream irrigated areas adjacent to North Fork Wildcat Creek and Wildcat Creek. During sampling periods when irrigable flow is present at DIV1 (≥ 20 cfs), the permit also establishes an effluent limit for specific conductance (2,500 $\mu\text{mhos/cm}$) at each permitted outfall. The effluent limit for specific conductance in this permit is intended to prevent a measurable decrease in crop production within the downstream irrigated areas adjacent to North Fork Wildcat Creek and Wildcat Creek. Based on earlier soil chemistry studies conducted in the downstream irrigated areas along Wildcat Creek (see Golder Associates technical report "*Evaluation of Soil and Surface Water Salinity in Wildcat Creek and Adjacent Drainages*" - March 31, 2002), WDEQ has determined that a specific conductance limit of 2,500 $\mu\text{mhos/cm}$ at each outfall, in conjunction with implementation of the approved "Sampling and Monitoring Protocol" (Appendix B), will satisfy requirements for protection of agricultural water supply, in accordance with Chapter 1, Section 20 of the Wyoming Water Quality Rules and Regulations. Limits for SAR at each attenuation zone terminus [$(7.10 \times \text{EC dS/m}) - 2.48$] and for specific conductance at each outfall (2,500 $\mu\text{mhos/cm}$) are effective only during those monitoring periods when irrigable flow occurs at location DIV1.

As part of the application, the permittee has submitted a sampling and monitoring protocol (Appendix B), which meets DEQ's requirements for evaluating potential impacts to irrigation uses in the Wildcat Creek drainage. This permit requires the WDEQ-approved sampling and monitoring protocol to be implemented in accordance with all conditions of the approval. The sampling and monitoring protocol identifies the criteria for evaluating physical trends or conditions that would indicate a potential adverse impact to crop production.

Outfall and in-stream sampling results are to be reported quarterly and if no discharge occurs at a given discharge point for an entire monitoring period, then "no discharge" is to be reported for that discharge point during that monitoring period.

Modification of Irrigable Flow Rate: DEQ anticipates that during the life of this permit, physical alterations could be made to the downstream irrigation diversion structures, which may affect where and how those structures function. In the event that the location and/or unrestricted flow capacity of the

downstream irrigation structure(s) become altered in the field to the extent that they would affect the downstream irrigable flow rate and/or the location where the irrigable flow rate is measured for this permit, the permit may need to be modified to reflect those physical changes in the field. If the irrigable flow rate changes, or if the location of the first downstream point of irrigation diversion changes, DEQ may administratively modify the permit to reflect any such changes in the field. This type of modification to the permit may not require further public notice. Prior to approving any such modifications of the permit, DEQ will review the updated physical / hydraulic data related to the affected irrigation diversion structure(s). This data must be submitted to DEQ by the permittee in conjunction with a completed application to modify the permit. DEQ will not modify the irrigable flow rate and/or location of the first downstream point of irrigation diversion in the permit until the changes in the field have been completed and all of the associated physical / hydraulic data have been reviewed.

Water Quality Monitoring Stations – Little Powder River

The permit also requires sampling at designated water quality monitoring stations located on the tributary (Horse Creek) and at locations on the mainstem – the Little Powder River (class 2ABWW water), which Horse Creek confluences. Water quality monitoring stations on the Little Powder River will be located upstream and downstream of the confluence of Horse Creek with the Little Powder River. Monthly water quality samples are to be collected at all three water quality monitoring stations when effluent from this CBM facility reaches the TRIB1 station on Horse Creek. If flow occurs at the TRIB1 station 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 three 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 TRIB1 station. If no flow at all occurs at the TRIB1 station for an entire monthly monitoring period, then “no flow” is to be reported and samples need not be collected at the three water quality monitoring stations for that monthly monitoring period. Information gathered from the water quality monitoring stations may result in modification of the permit to protect existing uses on the tributary and mainstem.

Perennial Flow Monitoring – Wildcat Creek

The approved Water Administration Plan for this permit (Appendix A, dated 8/27/04) requires several operators, including this permittee, to coordinate discharges and reservoir releases in order to prevent Wildcat Creek from becoming a perennial stream. Therefore, this permit requires daily measurement of flow at two locations along the main channel of Wildcat Creek (DIV3: in the SESE of Section 21 in Township 53 North, Range 73 West; and CRX: in the NWE of Section 12 in Township 53 North, Range 73 West). All daily flow rate measurements at the above locations shall be listed in an addendum report (in electronic form) to accompany quarterly discharge monitoring reports. Information in the addendum report must include for each station the date and recorded flow for each day. If stream flow exceeds 120 days during any 365-day period at either location DIV3 or location CRX, then the permittee will notify DEQ and submit all daily flow data from the DIV3 and CRX stations, as well as all daily flow data from the AZT location(s) associated with this permit. DEQ will evaluate the flow data and determine if there is a need to re-open and modify the permits (in accordance with Parts III.A.3 and III.A.4 below) in order to prevent Wildcat Creek from becoming a perennial stream.

General 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 quarterly. The permit is scheduled to expire on June 30, 2010. This expiration date has been established through review of the watershed-based permitting schedule, which DEQ is in the process of implementing in order to synchronize permitting and expiration dates of facilities within the same watershed. This holistic approach will provide for the more efficient permitting of point-source discharges.

Jennifer Zygmunt—Renewal
Water Quality Division
Department of Environmental Quality
Drafted: July 9, 2007

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,

Pinnacle Gas Resources, Inc.

is authorized to discharge from the wastewater treatment facilities serving the

Butcher CBM Facility

located in

SWNW, SWSE of Section 19, Township 53 North, Range 73 West, in Campbell County,

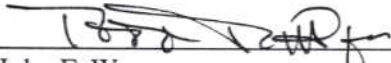
to receiving waters named

Boruff Draw (class 3B) and to Campbell Draw (class 3B), both of which are tributary to North Fork Wildcat Creek (class 3B) which is tributary to the Little Powder River (class 2AB) via Wildcat Creek (class 3B).

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

This permit renewal 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 at midnight, June 30, 2010.



John F. Wagner
Administrator, Water Quality Division

8-30-07

Date



John V. Corra
Director - Department of Environmental Quality

8/30/07

Date

PART I

The Wildcat Creek drainage is an ephemeral/intermittent watershed with distinctive topography, water, hydrology, soil, and vegetation conditions. Therefore, certain terms and conditions of this permit, including but not necessarily limited to the sampling and monitoring protocol and effluent limitations, are specific to the Wildcat Creek drainage.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Effective immediately and lasting through June 30, 2010, 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 serial numbers 001-002.

1. Such discharges shall be limited as specified below:

Effluent Limits

<u>Effluent Characteristic</u>	<u>Daily Maximum Outfall</u>	<u>Daily Maximum Attenuation Zone</u>
Chlorides, mg/l	46	
Dissolved Iron, µg/l	1000	
Dissolved Manganese, µg/l	718	
Dissolved Copper, µg/l	14.6	
Dissolved Lead, µg/l	7.7	
pH, standard units	6.5 – 9.0	
Specific Conductance, µmhos/cm (When flow at DIV1 is ≥ 20 cfs)*	2500	
Specific Conductance, µmhos/cm (When flow at DIV1 is < 20 cfs)	7500	
Sulfates, mg/l	3000	
Total Arsenic, µg/l	4.1	
Total Barium, µg/l	1800	
Total Dissolved Solids, mg/l	5000	
Sodium Adsorption Ratio, calc. (When flow at DIV1 is ≥ 20 cfs)*	N/A	(7.10 x EC dS/m) - 2.48
Sodium Adsorption Ratio, calc. (When flow at DIV1 is < 20 cfs)	N/A	N/A
Total Radium 226, pCi/l	5	

*Irrigation effluent limits [EC=2,500 µmhos/cm at outfall; SAR=(7.10 x EC dS/m) - 2.48 at AZT] will apply during any monitoring week in which irrigable flow (≥ 20 cfs) occurs at the first downstream point of irrigation diversion (DIV1). A monitoring week begins at 12:01 AM Sunday morning and ends at 12:00 midnight Saturday evening.

Effluent limit for SAR, (7.10 x EC dS/m) - 2.48, which applies during any monitoring week in which irrigable flow occurs at DIV1, is based on EC, dissolved sodium,

dissolved calcium, and dissolved magnesium measured at the respective attenuation zone terminus point (AZTNF).

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

The effluent discharged at this facility will originate from the Cook, Canyon, Wall, and/or Pawnee coal seams. The permittee may discharge water produced from any authorized well to any permitted outfall, as long as all permit limits and requirements are met.

Information gathered in conjunction with this permit may result in modification of the permit to protect existing uses on the tributary and the mainstem.

Perennial Flow Monitoring: The approved Water Administration Plan for this permit (Appendix A, dated 8/27/04) requires several operators, including this permittee, to coordinate discharges and reservoir releases in order to prevent Wildcat Creek from becoming a perennial stream. Therefore, this permit requires daily measurement of flow at two locations along the main channel of Wildcat Creek (DIV3: in the SESE of Section 21 in Township 53 North, Range 73 West; and CRX: in the NWNE of Section 12 in Township 53 North, Range 73 West). All daily flow rate measurements at the above locations shall be listed in an addendum report (in electronic form) to accompany quarterly discharge monitoring reports. Information in the addendum report must include for each station the date and recorded flow for each day. If stream flow exceeds 120 days during any 365-day period at either location DIV3 or location CRX, then the permittee will notify DEQ and submit all daily flow data from the DIV3 and CRX stations, as well as all daily flow data from the AZT location(s) associated with this permit. DEQ will evaluate the flow data and determine if there is a need to re-open and modify the permits (in accordance with Parts III.A.3 and III.A.4 below) in order to prevent Wildcat Creek from becoming a perennial stream.

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, streambeds, 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. Routine monitoring End of Pipe (Outfalls 001-002)

For the duration of the permit, samples for the constituents described below shall be collected at the indicated frequencies. Monitoring will be reported based on quarterly time frames, from January through March,

April through June, July through September, and October through December.

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Bicarbonate, mg/l	Monthly	Grab
Dissolved Calcium, mg/l	Monthly	Grab
Dissolved Calcium, me/l	Monthly	Grab
Chloride, mg/l	Monthly	Grab
Dissolved Iron, µg/l	Annually	Grab
Dissolved Manganese, µg/l	Annually	Grab
Dissolved Magnesium, mg/l	Monthly	Grab
Dissolved Magnesium, me/l	Monthly	Grab
Dissolved Copper, µg/l	Annually	Grab
Dissolved Lead, µg/l	Annually	Grab
pH, standard units	Monthly	Grab
Radium 226, pCi/l	Annually	Grab
Dissolved Sodium, mg/l	Monthly	Grab
Dissolved Sodium, me/l	Monthly	Grab
Sodium Adsorption Ratio, unitless	Monthly	Calculated
Specific Conductance, µmhos/cm	Monthly	Grab
Sulfate, mg/l	Monthly	Grab
Total Alkalinity, mg/l as CaCO ₃	Monthly	Grab
Total Arsenic, µg/l	Annually	Grab
Total Barium, µg/l	Annually	Grab
Total Flow Rate, cfs	Monthly	Continuous

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.

b. Attenuation Zone Terminus (AZTNF)

For the duration of the permit, flow rate shall be measured daily at the attenuation zone terminus points. Samples for the remaining constituents described below shall be collected at the indicated frequencies when irrigable flow (≥ 20 cfs) is present at DIV1. Results of chemical sampling at AZTNF will be submitted in quarterly discharge monitoring reports and will also be submitted, when necessary, in accordance with the conditions of Appendix D (dated 7/26/04) "Process for Determining Contribution to Effluent Limit Exceedence". All daily flow rate measurements at AZTNF shall be listed in an addendum report to accompany quarterly discharge monitoring reports. Information in the addendum report must include date and recorded flow at AZTNF for

each day. Submission of daily flow rate data for AZTNF may also be required in conjunction with Part I.A.1 of the permit “Perennial Flow Monitoring.”

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Total Flow Rate, cfs	Daily	Field Reading
Specific Conductance, $\mu\text{mhos/cm}$	Weekly	Grab
Dissolved Sodium, mg/l	Weekly	Grab
Dissolved Sodium, me/l	Weekly	Grab
Dissolved Calcium, mg/l	Weekly	Grab
Dissolved Calcium, me/l	Weekly	Grab
Dissolved Magnesium, mg/l	Weekly	Grab
Dissolved Magnesium, me/l	Weekly	Grab
Sodium Adsorption Ratio, calc	Weekly	Calculated

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: at the attenuation zone terminus point (AZTNF), which is located as follows:

AZTNF: SWSW of Section 20, Township 53 North, Range 73 West on North Fork Wildcat Creek

Flow rate shall be measured daily at the three attenuation zone terminus points and any of the above listed AZT points receives no effluent from this facility for an entire weekly monitoring period, then “no discharge” is to be reported for that AZT that week. In addition, if flow remains below 20 cfs at DIV1 for an entire weekly monitoring period, then no chemical sampling is required at any of the AZT points for that weekly monitoring period. Flow measurement at AZTNF is still required daily, regardless of whether full irrigable flow is occurring at DIV1. Irrigation effluent limits [EC=2,500 $\mu\text{mhos/cm}$ at outfall; SAR =(7.10 x EC dS/m) - 2.48 at AZT] will apply during any weekly monitoring period in which irrigable flow (≥ 20 cfs) occurs at DIV1. A monitoring week begins at 12:01 AM Sunday morning and ends at 12:00 midnight Saturday evening.

c. First Downstream Point of Irrigation Diversion (DIV1)

For the duration of the permit, samples for the constituents described below shall be collected at the indicated frequencies. Reporting of results will occur in quarterly discharge monitoring reports.

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Total Flow Rate, cfs	Daily	Field Reading
Specific Conductance, $\mu\text{mhos/cm}$	Weekly	Grab
Dissolved Sodium, mg/l	Weekly	Grab
Dissolved Sodium, me/l	Weekly	Grab
Dissolved Calcium, mg/l	Weekly	Grab
Dissolved Calcium, me/l	Weekly	Grab
Dissolved Magnesium, mg/l	Weekly	Grab
Dissolved Magnesium, me/l	Weekly	Grab
Sodium Adsorption Ratio, calc	Weekly	Calculated

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: at the first downstream point of irrigation diversion (DIV1), which is located in SWSE, Section 21, Township 53 North, Range 73 West, on North Fork Wildcat Creek. Flow rate shall be measured daily at DIV1 and if no flow from any source occurs at DIV1 for an entire weekly monitoring period, then “no discharge” is to be reported for DIV1 that week. In addition, if flow remains below 20 cfs at DIV1 for an entire weekly monitoring period, then no chemical sampling is required at DIV1 for that weekly monitoring period. Flow measurement at DIV1 is still required daily, regardless of whether full irrigable flow is occurring at DIV1.

Modification of Irrigable Flow Rate: DEQ anticipates that during the life of this permit, physical alterations could be made to the downstream irrigation diversion structures, which may affect where and how those structures function. In the event that the location and/or unrestricted flow capacity of the downstream irrigation structure(s) become altered in the field to the extent that they would affect the downstream irrigable flow rate and/or the location where the irrigable flow rate is measured for this permit, the permit may need to be modified to reflect those physical changes in the field. If the irrigable flow rate changes, or if the location of the first downstream point of irrigation diversion changes, DEQ may administratively modify the permit to reflect any such changes in the field. This type of modification to the permit may not require further public notice. Prior to approving any such modifications of the permit, DEQ will review the updated physical / hydraulic data related to the affected irrigation diversion structure(s). This data must be submitted to DEQ by the permittee in conjunction with a completed application to modify the permit. DEQ will not modify the irrigable flow rate and/or location of the first downstream point of irrigation diversion in the permit until the changes in the field have been completed and all of the associated physical / hydraulic data have been reviewed.

d. Water Quality Monitoring Stations (TRIB1, ULPR, DLPR)

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 quarterly.

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Total Flow Rate, cfs	Monthly	Field Reading
Specific Conductance, $\mu\text{mhos/cm}$	Monthly	Grab
Dissolved Sodium, mg/l	Monthly	Grab
Dissolved Sodium, me/l	Monthly	Grab
Dissolved Calcium, mg/l	Monthly	Grab
Dissolved Calcium, me/l	Monthly	Grab
Dissolved Magnesium, mg/l	Monthly	Grab
Dissolved Magnesium, me/l	Monthly	Grab
Sodium Adsorption Ratio, calc	Monthly	Calculated

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations: designated water quality monitoring stations identified as TRIB1, ULPR, and DLPR in Table 1 of the permit below. Established water quality monitoring stations on the mainstem are to be located outside the mixing zone with the tributary and the mainstem. Monthly water quality samples are to be collected at all three water quality monitoring stations when effluent from this CBM facility reaches the TRIB1 station on Horse Creek. If flow occurs at the TRIB1 station 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 three 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 TRIB1 station. If no flow at all occurs at the TRIB1 station for an entire monthly monitoring period, then "no flow" is to be reported and samples need not be collected at the three water quality monitoring stations for that monthly monitoring period.

e. Sampling and Monitoring Protocol

(See Appendix B, approved by DEQ 3/12/04)

- 1) The WDEQ-approved Sampling and Monitoring Protocol (Appendix B) shall be implemented by the permittee.
- 2) The permittee shall submit to WDEQ an Annual Review of the sampling and monitoring based on the WDEQ-approved protocol. The Annual Review shall be received by WDEQ yearly on or before March 31, beginning in 2005 and shall include all associated data that is specified in the Sampling and Monitoring Protocol.
- 3) The data collected in the Sampling and Monitoring Protocol is not an effluent limit or otherwise used for compliance under this permit, but may be considered by WDEQ as a basis for re-opening this permit.
- 4) The permittee shall submit any modification(s) of the Sampling and Monitoring Protocol to the WDEQ for its review and approval prior to implementation of any such change.

f. Water Administration Plan

(See Appendix A, approved by DEQ 8/27/04)

- 1) The WDEQ-approved Water Administration Plan (Appendix A) shall be implemented by the permittee.
- 2) Any modification(s) of the Water Administration Plan must be approved by WDEQ prior to implementation of any such changes.

g. Determining Contribution to Effluent Limit Exceedence

(See Appendix D, approved by DEQ 7/26/04)

- 1) The permittee has submitted a process for determining the contribution of their CBM discharge to an effluent limit exceedence at the attenuation zone terminus (AZTJP). This document is referred to as Appendix D for this permit.
- 2) The DEQ may use this process to determine responsibility for exceedence(s) at attenuation zone terminus location(s).
- 3) The permittee will not have contributed to an exceedence if it can prove that it was not discharging CBM water during the period that would contribute to the exceedence.

- 4) For purposes of applying Appendix D in this permit, the term “discharge” refers to discharge from a CBM outfall or release from a reservoir containing CBM effluent.

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 routine end of pipe, attenuation zone terminus, and water quality station monitoring during the previous three (3) months shall be summarized and reported quarterly 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 quarterly DMR shall contain a summary of flow measurements and any additional monitoring conducted subsequent to the submittal of the initial monitoring report. If whole effluent toxicity testing (biomonitoring) is required, 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 second the month following the completed reporting period. **The first quarterly monitoring report following the issuance of this renewal is due by November 15th, 2007.**

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. "cfs" is defined as cubic feet per second.
- 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 rate.
- 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 rate of water discharged, measured on a continuous basis and reported as a total rate for each reporting period. The accuracy of flow measurement must comply with Part III.A.1.
- j. "Irrigable Flow" is the flow rate measured at the first downstream point of irrigation diversion (DIV1), located in the SWSE, Section 21, Township 53 North, Range 73 West, that is capable of causing that irrigation system to spread water over the fields at a volume that will result in significant irrigation, even if the flow is unrestrained. The irrigable flow for this permit is any flow equal to or exceeding 20 cubic feet per second at DIV1.

k. “Non-Irrigable Flow” is any flow rate measured at DIV1 that is less than the irrigable flow. The non-irrigable flow for this permit is any flow less than 20 cubic feet per second at DIV1.

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.

In order for the permit not to be subjected to additional public notice, the location of the established discharge point must be 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.

12. Location of Outfalls, Attenuation Zone Terminus, and First Downstream Point of Irrigation Diversion

As of the date of permit issuance, authorized discharge points and monitoring points were as follows:

SEE TABLE 1 FOR LOCATIONS OF OUTFALLS (001-002), ATTENUATION ZONE TERMINUS POINTS (AZTNF,), and FIRST DOWNSTREAM POINT OF IRRIGATION DIVERSION (DIV1).

13. Location of water quality monitoring stations

As of the date of permit issuance, authorized water quality monitoring stations were as follows:

SEE TABLE 1 FOR A LIST OF WATER QUALITY MONITORING STATIONS (TRIB1, ULPR, DLPR).

Table 1: WY0053961 - Butcher CBM Facility

Discharge Point	QTR/ QTR	SECT	TWP (N)	RNG (W)	LATITUDE*	LONGITUDE*	Drainage / Description	Reservoir	Ground-water Approval Required for Discharge?	Reservoir Bond to WDEQ Required Prior to Discharge?
001	SWNW	19	53	73	<i>44.562755313</i>	<i>-105.691848237</i>	Boruff Draw, tributary to North Fork Wildcat Creek	Butcher	Yes	No
002	SWSE	19	53	73	<i>44.55408</i>	<i>-105.68390</i>	Campbell Draw, tributary to North Fork Wildcat Creek	Mackinaw	Yes	No
AZTNF	SWSW	20	53	73	44.55410	-105.67315	Attenuation Zone Terminus on North Fork Wildcat Creek. Upstream of DIV1. Serves outfalls 001-002	NA	NA	NA
DIV1	SWSE	21	53	73	44.55520	-105.64212	first downstream point of Irrigation diversion below AZT points (located on North Fork Wildcat Creek at upstream side of "spreader dam 31"); Irrigable flow = 20 cfs or greater.	NA	NA	NA
TRIB1	SESE	22	55	71	44.72886	-105.36878	Tributary monitoring station on Horse Creek	NA	NA	NA
ULPR	SESE	22	55	71	44.72869	-105.37153	Upstream Little Powder River monitoring station (above Horse Creek)	NA	NA	NA
DLPR	SWSW	23	55	71	44.72886	-105.36878	Downstream Little Powder River monitoring station (below Horse Creek)	NA	NA	NA

*Latitudes and longitudes shown in italics have been field-verified by WDEQ inspection staff using NAD83 datum.

Note: All CBM wells at this facility may discharge to any of the above listed outfalls (001-002)

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.

s 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 to include a notice of violation, revocation of the discharge permit, or other appropriate enforcement action.

PART II

A. MANAGEMENT REQUIREMENTS

1. Changes

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

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

2. Noncompliance Notification

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

The written submission shall contain:

- (1) A description of the noncompliance and its cause;
 - (2) The period of noncompliance, including exact dates and times;
 - (3) The estimated time noncompliance is expected to continue if it has not been corrected; and
 - (4) Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
- d. The following occurrences of unanticipated noncompliance shall be reported by telephone to the Water Quality Division, Watershed Management Section, 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 July 1st through June 30th. 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.