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

STATEMENT OF BASIS

RENEWAL

APPLICANT NAME:	Peabody School Creek Mining, LLC
MAILING ADDRESS:	Caller Box 3045 Gillette, WY 82717
FACILITY LOCATION:	School Creek Mine which is located in NENW Section 13, SWNE Section 13, NENE Section 13, NESW Section 13, NWSW Section 13, SWSW Section 11, NENE Section 11, Section 11, NWSE Section 9, NWNE Section 9, NWNW Section 9, T42N R70W, and NENW AND SESWSection19, NWNE Section 30, SWNE Section 29, SESW Section 29, and NWSW Section18, T42N, R690W, Campbell County. The wastewater will discharge to Mackay Draw, Holmes Creek, Kendra Draw, Sundy Draw, Horsetail Draw, School Creek, Lexie Draw, Calvin Draw, First Draw, Second Draw, Third Draw, Fourth Draw, Fifth Draw, West School Creek, Fleischman Draw, Trussler Creek, Stephens Draw, and unnamed draws (3B), Cheyenne River Basin, Campbell County.
PERMIT NUMBER:	WY0054968

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. Specific changes to the permit include the following:

1. *Effluent limits for dissolved iron and dissolved manganese are expressed in µg/L limits, not mg/L, consistent with all other WYPDES permits.*
2. *Total manganese and dissolved manganese effluent limit and monitoring requirements apply only when pH of the discharge, prior to any treatment, is less than 6.0 standard units. The previous permit stated "less than 7.0 standard units".*

BACKGROUND: The School Creek Mine will be a large surface coal mine located in southern Campbell County, Wyoming between the North Rochelle Mine and the North Antelope Rochelle Mine. Production is expected to begin in spring of 2012.

TECHNOLOGY-BASED-EFFLUENT LIMITS: For dry weather discharges, technology-based effluent limits include total iron, 3.0 mg/L; total manganese, 2.0 mg/L; and total suspended solids at 35 mg/L, all monthly averages. Technology-based limits also include total iron at 9.0 mg/L, total manganese at 6.0 mg/L and total suspended solids at 90 mg/L, all instantaneous maximum limits. These requirements were present in the previous permit. The limit for pH is 6.5 to 9.0 standard units, per Chapter 1, Wyoming Water Quality Rules and Regulations.

For wet weather discharges, the only technology-based effluent limits include pH between 6.5 and 9.0 standard units; and total settleable solids at 0.5 ml/L. Please refer to Part IA.1 of the permit for more

information. Water quality based effluent limits, described below, are also in effect during wet weather discharges. *The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event.*

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

The permit establishes effluent limits for the end of pipe, which are protective of the designated uses for class 3B waters as defined in *Chapter 1 of Wyoming Water Quality Rules and Regulations*. These include aquatic life other than fish, recreation, agriculture, wildlife, industry and scenic value. Water quality based effluent limits for this permit are based on standards 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."

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

The permit also requires runoff from disturbed areas to be controlled by sedimentation ponds or other appropriate measures. Control of potentially contaminated storm water from haul roads, rail spur lines, and ancillary areas will be accomplished by the permittee under the provisions of the State of Wyoming's general storm water permit associated with industrial activities. The mine already has coverage under this general permit (WYR001206).

ONE-TIME INITIAL MONITORING (once per 5 year permit cycle): The renewal application required upfront sampling of 24 constituents; however, the facility was non-discharging at the time of application. Therefore, the permit requires that a single monitoring event of the effluent for 24 parameters listed in Part I. One sampling event is to take place from a minimum of one outfall representing pit water and runoff water. Within 60 days of commencement of discharge, a sample shall be collected from the outfall and analyzed for the 24 constituents specified in Part I, 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. This sampling event may be performed during a dry weather discharge or wet weather discharge. This requirement is based on the need to establish baseline data for these constituents, ensuring that negligible threats exist for contamination by the 24 contaminants. After receiving the monitoring results, the monitoring requirements and effluent limits described in Part I.1 may be modified to require monitoring or limits for contaminants of concern. This one-time-initial monitoring is required once every 5 year permit cycle.

ANTIDEGRADATION, IMPAIRMENT REVIEW: The discharge of wastewater and the effluent limits that are established in this permit have been reviewed to ensure that the levels of water quality necessary to protect the designated uses of the receiving waters are maintained and protected. An antidegradation review has been conducted and verifies that the permit conditions, including the effluent limitations established, provide a level of protection to the receiving water consistent with the

antidegradation provisions of Wyoming surface water quality standards. An evaluation has been completed to ensure that the receiving water has not been listed on the 303(d) list as a waterbody that cannot support designated uses. The evaluation has revealed that the receiving water is not included on this list.

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 December 31, 2016.

Roland Peterson
Water Quality Division
Department of Environmental Quality
Drafted: September 22, 2011

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,

Peabody School Creek Mining, LLC

is authorized to discharge from the wastewater treatment facilities serving the

School Creek Mine

located in

in NENW Section 13, SWNE Section 13, NENE Section 13, NESW Section 13, NWSW Section 13, SWSW Section 11, NENE Section 11, Section 11, NWSE Section 9, NWNE Section 9, NWNW Section 9, T42N R70W, and NENW AND SESWSection19, NWNE Section 30, SWNE Section 29, SESW Section 29, and NWSW Section18, T42N, R690W, Campbell County.

The wastewater will discharge to

Mackay Draw, Holmes Creek, Kendra Draw, Sundy Draw, Horsetail Draw, School Creek, Lexie Draw, Calvin Draw, First Draw, Second Draw, Third Draw, Fourth Draw, Fifth Draw, West School Creek, Fleischman Draw, Trussler Creek, Stephens Draw, and unnamed draws (3B), Cheyenne River Basin, Campbell County.

to receiving waters named

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

This permit shall become effective on January 1, 2012.

This permit and the authorization to discharge shall expire on December 31, 2016 at midnight.

Bill DiSanger (for)
John F. Wagner, Administrator
Water Quality Division

John V. Corra, Director
Department of Environmental Quality

Date of Issuance: RP 12-29-11

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Effective January 1, 2012 and lasting through December 31, 2016 the quality of effluent discharged by the permittee shall, at a minimum, meet the limitations set forth below. The permittee is authorized to discharge from outfall serial number(s) 001-018, 020

Authorized for discharge from these outfalls are treated mine pit water, water from dewater wells, process wastewater, and/or runoff from disturbed areas.

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

a. **If**: There has been no measurable precipitation or snow melt during the previous ten days;

Then: Any discharge must meet the following effluent limitations and self-monitoring requirements:

Effluent Characteristic	Discharge Limitations		
	Monthly average	Daily Maximum	Instantaneous Maximum
Total Iron, mg/L	3.0	6.0	9.0
Total Manganese, mg/L *	2.0	4.0	6.0
Dissolved Iron, µg/L	N/A	N/A	1000
Dissolved Manganese, µg/L *	N/A	N/A	1462
Total Suspended Solids, mg/L	35	70	90
pH (standard units)	N/A	N/A	6.5 to 9.0

* Applicable only when pH of the discharge, prior to any treatment, is less than 6.0 standard units

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

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

Monitoring Requirements		
Parameter	Measurement Frequency	Sample Type
Flow - MGD	Weekly	Instantaneous
Number of Days Discharged	Monthly	Record
pH, standard units	Monthly	Grab
Total Iron, mg/L	Monthly	Grab
Total Manganese *, mg/L	Monthly	Grab
Dissolved Iron, µg/L	Monthly	Grab
Dissolved Manganese *, µg/L	Monthly	Grab
Total Suspended Solids, mg/L	Weekly	Grab

* Applicable only when pH of the discharge, prior to any treatment, is less than 6.0 standard units

b. **If**: During the previous ten days, any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event (2.2 inches, or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations. *The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event.*

Then: Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event (2.2 inches or snowmelt of equivalent volume) must meet an instantaneous maximum settleable solids limitation of 0.5 ml/L and a pH of 6.5 to 9.0. The discharge must also meet the dissolved iron and dissolved manganese limits set above. Discharge quality (dissolved iron, dissolved manganese, pH and settleable solids) and quantity must be measured with a single grab sample on the first day that a discharge occurs following any precipitation or snow melt event.

Pollutant or Pollutant Property	Limitations	Monitoring
Settleable Solids	0.5 mL/L maximum not to be exceeded	First day of discharge following precipitation event
pH	Within the range of 6.5 to 9.0 at all times	First day of discharge following precipitation event
Dissolved Iron, µg/L	1000	First day of discharge following precipitation event

c. **If**: During the previous ten (10) days there has been a precipitation and/or snow melt event of any duration within any 24 hour period which results in a precipitation depth more than the 10-year, 24-hour event (2.2 inches). *The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event.*

Then: Any discharge on the day of the event or on the first and second day following such an event must meet a pH limitation of 6.5-9.0 and no monitoring is required. Any discharge during the third through tenth day following that event must meet an instantaneous maximum settleable solids limitation of 0.5 ml/L and a pH of 6.5 to 9.0. Discharge quality (settleable solids and pH) and quantity must be measured with a single grab sample on the third, fifth and tenth days following the event.

Pollutant or Pollutant Property	Limitations	Monitoring
Settleable Solids	0.5 mL/L maximum not to be exceeded	Third, fifth, and tenth days following the event
pH	Within the range of 6.5 to 9.0 at all times	Third, fifth, and tenth days following the event

d. All runoff control facilities shall be operated in a manner to minimize, to the extent practicable, the discharge of suspended solids and sediment. If, after on-site inspection by the Wyoming Department of Environmental Quality and/or the U.S. Environmental Protection Agency, it is determined that a runoff control pond is not being so operated, such finding shall be considered to be a violation of this permit.

e. It shall be the responsibility of the permittee to document runoff and snow melt conditions whenever a discharge occurs.

f. Samples taken to comply with the monitoring requirements of this permit shall be taken at the outfall from the final treatment unit and prior to admixture with diluent water or the receiving stream.

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

a. Routine Monitoring

Monitoring Requirements, Outfalls 001-018, 020		
Parameter	Measurement Frequency	Sample Type
Flow - MGD	Weekly	Instantaneous
Number of Days Discharged	Monthly	Record
pH, standard units	Monthly	Grab
Total Iron, mg/L	Monthly	Grab
Total Manganese *, mg/L	Monthly	Grab
Dissolved Iron, µg/L	Monthly	Grab

Dissolved Manganese *, µg/L	Monthly	Grab
Total Suspended Solids, mg/L	Weekly	Grab

* Applicable only when pH of the discharge, prior to any treatment, is less than 6.0 standard units

a. Monitoring of the initial discharge (once per 5 year permit cycle):

The renewal application required upfront sampling of 24 constituents; however, the facility was non-discharging at the time of application. Therefore, the permit requires that a single monitoring event of the effluent for 24 parameters listed in the table below. One sampling event is to take place from a minimum of one outfall representing pit water and runoff water. Within 60 days of commencement of discharge, a sample shall be collected from the outfall and analyzed for the 24 constituents specified in the table 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. This sampling event may be performed during a dry weather discharge or wet weather discharge. This requirement is based on the need to establish baseline data for these constituents, ensuring that negligible threats exist for contamination by the 24 contaminants. After receiving the monitoring results, the monitoring requirements and effluent limits prescribed above in Part I.1 may be modified to require monitoring or limits for contaminants of concern. This one-time-initial monitoring is required once every 5 year permit cycle.

Parameter* (See notes following the table on chemical states)	**Required Detection Limits and Required Units**
Alkalinity, Total	**1 mg/L as $CaCO_3$**
Aluminum, Total Recoverable	**50 µg/L**
Arsenic, Total	**1 µg/L**
Barium, Total	**100 µg/L**
Bicarbonate	**10 mg/L**
Cadmium, Dissolved	**5 µg/L**
Calcium, Dissolved	**50 µg/L, report as me/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**
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 me/L**
Magnesium, Dissolved	**100 µg/L, report as mg/L**
Manganese, Dissolved	**50 µg/L**
Mercury, Dissolved	**1 µg/L**
pH	**to 0.1 pH unit**
Radium 226, Total	**0.2 pCi/L**

Parameter* (See notes following the table on chemical states)	**Required Detection Limits and Required Units**
Selenium, Total Recoverable	**5 µg/L**
Sodium Adsorption Ratio	**Calculated as unadjusted ratio**
Sodium, Dissolved	**100 µg/L, report as me/L**
Sodium, Dissolved	**100 µg/L, report as mg/L**
Specific Conductance	**5 micromhos/cm**
Sulfates	**10 mg/L**
Zinc, Dissolved	**50 µg/L**

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

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 address:

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

Adverse weather conditions: The permit allows for temporary waivers from sampling based on adverse climatic conditions for effluent limitation sampling. This temporary sampling waiver is only intended to apply to insurmountable weather conditions such as dangerous conditions such as lightning, flooding, or tornadoes. These events tend to be isolated incidents and should not be used as an excuse for not conducting sampling under more favorable conditions associated with other storm events. The sampling waiver is not intended to apply to difficult logistical conditions, such as remote facilities with few employees or discharge locations which are difficult to access. When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a sample once the adverse condition has subsided. Permittees are not required to obtain advance approval for sampling waivers. The permittee will need to adequately demonstrate and indicate in the Discharge Monitoring report(s) that local conditions are inaccessible for collecting samples during these periods.

B. EROSION CONTROL

Effective immediately and lasting through December 31, 2016, the permittee shall control erosion from affected land to insure there is no violation of Wyoming's surface water quality standards.

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

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

1. If a settling pond is not sized to completely contain the runoff resulting from precipitation, an equivalent snow melt or combination of precipitation and resulting snow melt equal to the 10 year/24 hour precipitation event (2.2 inches), the outfall from such settling pond must be identified as a point of discharge under Part I.C.10 of this permit.

2. If a settling pond is sized to completely contain the runoff from the 10 year/24 hour precipitation event as described above, the outfall from such settling pond need not be identified as a point of discharge in Part I.C.10. However, it must be operated as follows:

    a. During and immediately following a precipitation or runoff event equal to or greater than the 10 year/24 hour precipitation event as described above, runoff in excess of the design capacity of the pond may be discharged even if the effluent does not meet the quality requirements of Part I.A of this permit.

    b. If, as the result of any precipitation or runoff event, the volume of water held in the pond exceeds the permanent pool, the water in the pond shall be analyzed at a minimum of once every five (5) days. When the total suspended solids concentration of the water is less than or equal to the total suspended solids limitations in Part I.A of the permit, the quantity in excess of the permanent pool shall be discharged within ten (10) days.

    c. The volume, Total Suspended Solids, Total Iron and pH of the discharges described in "b" above shall be monitored with single grab samples and shall be reported to the permit issuing authority as an addendum to the regular reports described in Part I.C.2 of this permit.

    d. All runoff control facilities shall be operated in a manner to minimize, to the extent practicable, the discharge of suspended solids and sediment. If, after on-site inspection by the Wyoming Department of Environmental Quality and/or the U.S. Environmental Protection Agency, it is determined that a runoff control pond is not being so operated, such finding shall be considered to be a violation of this permit.

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

        1. Sluicing of collected sediments does not occur;

        2. Scouring or erosion of the bottom of outlet channels does not occur;

        3. The ponds shall be designed and maintained to contain at least one year's worth of accumulated sediment storage as determined by acceptable empirical methods.

C. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water, or substance. Monitoring points shall not be changed without notification to and approval by, the permit issuing authority.

2. Reporting

Effluent monitoring results obtained during the previous three month(s) shall be summarized and reported on a Discharge Monitoring Report Form. If the permit requires whole effluent toxicity (WET) (biomonitoring) testing, WET test results must be reported on the most recent version of EPA Region 8 Guidance for Whole Effluent Reporting. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part II.A.11.), and submitted to the state water pollution control agency at the following address. The reports must be received by the agency no later than the 28th day of the month following the completed reporting period. The first report is due on April 28, 2012.

Wyoming Department of Environmental Quality
Water Quality Division
Herschler Building, 4 West
122 West 25th Street
Cheyenne, WY 82002
Telephone: (307) 777-7781

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

3. Definitions

a. A "composite" sample, for monitoring requirements, is defined as a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow.

b. The "monthly average" shall be determined by calculating the arithmetic mean (geometric mean in the case of the fecal coliform or E. coli) of pollutant parameter values of samples collected during a calendar month.

c. The "daily maximum" shall be determined by the analysis of a properly preserved composite sample composed of a minimum of four grab samples collected at equally spaced two hour intervals and proportioned according to flow at the time of sampling.

d. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.

e. The "instantaneous maximum" shall be determined by the analysis of a single grab sample.

f. "MGD", for monitoring requirements, is defined as million gallons per day.

g. "Net" value, if noted under Effluent Characteristics, is calculated on the basis of the net increase of the individual parameter over the quantity of that same parameter present in the intake water measured prior to any contamination or use in the process of this facility. Any contaminants contained in any intake water obtained from underground wells shall not be adjusted for as described above and, therefore, shall be considered as process input to the final effluent. Limitations in which "net" is not noted are calculated on the basis of gross measurements of each parameter in the discharge, irrespective of the quantity of those parameters in the intake waters.

h. A "pollutant" is any substance or substances which, if allowed to enter surface waters of the state, causes or threatens to cause pollution as defined in the Wyoming Environmental Quality Act, Section 35-11-103.

4. Test Procedures

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

5. Recording of Results

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

a. The exact place, date and time of sampling;

b. The dates and times the analyses were performed;

c. The person(s) who performed the analyses and collected the samples;

d. The analytical techniques or methods used; and

e. The results of all required analyses including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine the results.

6. Additional Monitoring by Permittee

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

7. Records Retention

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

8. Penalties for Tampering

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

9. Compliance Schedules

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

10. 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 NPDES 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. The permittee shall provide written notification of the establishment of each discharge point in accordance with Part I.A.2.a above.

11. Location of Discharge Points

Requests for modification of the outfalls contained in this permit (listed below) 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.

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:

a. The new outfall location is within 2640 feet of the established outfall location.

b. The new outfall location is within the same drainage or immediate permitted receiving waterbody.

c. There is no change in the identity of the landowner(s) located outside the mine permit boundary, who will receive the discharge water.

d. Notification of the change in outfall location must be provided to the WYPDES Permits Section in writing within 10 days of the outfall location change. The request must be provided in duplicate and legible maps showing the previous and new outfall location must be included.

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.

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Table 1, Outfalls
WY0054968
School Creek Mine

Out-fall	Qtr/Qtr	SEC-TION	TWP (N)	RNG (W)	LATITUDE	LONGITUDE	Drainage / Description
001	NESW	13	42N	70W	43.613890	-105.214610	Holmes Creek (3B), Cheyenne River Basin
002	NENW	19	42N	69W	43.613850	-105.219690	Kendra Draw
003	SESW	19	42N	69W	43.596900	-105.194270	Sundog Draw
004	NWNE	30	42N	69W	43.591660	-105.191630	Horsetail Draw, tributary to School Creek (3B)
005	NWNE	30	42N	69W	43.591920	-105.189010	Horsetail Draw (3B), tributary to School Creek
006	SWNE	29	42N	69W	43.588740	-105.179330	Lexie Draw (3B)
007	SESW	29	42N	69W	43.581860	-105.175280	Calvin Draw (3B), tributary to School Creek
008	NENW	13	42N	70W	43.620430	-105.213690	First Draw (3B), tributary to Holmes Creek
009	SWNE	13	42N	70W	43.615520	-105.212920	Second Draw (3B), tributary to Holmes Creek
010	SWNE	13	42N	70W	43.617450	-105.210360	Third Draw (3B), tributary to Holmes Creek
011	NENE	13	42N	70W	43.618640	-105.207640	Fourth Draw (3B), tributary to Holmes Creek
012	NWSW	18	42N	69W	43.614330	-105.200110	Fifth Draw (3B), tributary to School Creek
013	SWSW	11	42N	70W	43.624670	-105.241950	West School Creek (3B)

Out-fall	Qtr/Qtr	SEC-TION	TWP (N)	RNG (W)	LATITUDE	LONGITUDE	Drainage / Description
014	NENE	10	42N	70W	43.632200	-105.244610	Fleischman Draw (3B), tributary to West School Creek
015	NWSE	3	42N	70W	43.640720	-105.250460	Mackay Draw (3B), tributary to West School Creek
016	SWSE	9	42N	70W	43.621540	-105.271500	Trussler Creek (3B)
017	NWNE	9	42N	70W	43.634270	-105.269170	Trussler Creek (3B)
018	NWNW	9	42N	70W	43.632970	-105.282520	Trussler Creek (3B)
020	NESW	18	42N	69W	43.612990	-105.195380	Stephens Draw (3B)

*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.

Narrative Description of Outfalls:

001 The outfall from the Holmes Creek Reservoir, which will receive disturbed area runoff from the Mackay Pit and high quality water from a deep water supply well and intended for livestock downstream of the reservoir, located in the NESW Section 13, T42N R70W and will discharge into Holmes Creek.

002 The outfall from the SP-1 Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the NENW Section 19, T42N R69W and will discharge into Kendra Draw, tributary to School Creek.

003 The outfall from the SP-2 Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the SESW Section 19, T42N R69W and will discharge into Sundog Draw, tributary to School Creek.

004 The outfall from the SP-3 Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the NWNE Section 30, T42N R69W and will discharge into Horsetail Draw, tributary to School Creek.

005 The outfall from the SP-4 Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the NWNE Section 30, T42N R69W and will discharge into Horsetail Draw, tributary to School Creek.

006 The outfall from the SP-5 Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the SWNW Section 29, T42N R69W and will discharge into Lexie Draw, tributary to School Creek.

007 The outfall from the SP-6 Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the SWNW Section 29, T42N R69W and will discharge into Calvin Draw, tributary to School Creek.

008 The outfall from the SP-7 Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the NENW Section 13, T42N R70W and will discharge into First Draw, tributary to Holmes Creek.

009 The outfall from the SP-8 Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the SWNE Section 13, T42N R70W and will discharge into Second Draw, tributary to Holmes Creek.

010 The outfall from the SP-9 Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the SWNE Section 13, T42N R70W and will discharge into Third Draw, tributary to Holmes Creek.

011 The outfall from the SP-10 Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the NENE Section 13, T42N R70W and will discharge into Fourth Draw, tributary to Holmes Creek.

012 The outfall from the SP-11 Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the NWSW Section 13, T42N R70W and will discharge into Fifth Draw, tributary to School Creek.

013 The outfall from the Frandsen Reservoir, which will receive disturbed area runoff from the Central Pit, located in the SWSW Sections 10 and 11, T42N R70W and will discharge into West School Creek.

014 The outfall from the Fleischman Reservoir, which will receive disturbed area runoff from the Central Pit, located in the NENE Section 10, T42N R70W and will discharge into Fleischman Draw, Tributary to West School Creek.

015 The outfall from the Mackay Reservoir, which will receive disturbed area runoff from the Central Pit, located in the NWSE Section 3, T42N R70W and will discharge into Mackay Draw, Tributary to West School Creek.

016 The outfall from the Clark Reservoir, which will receive disturbed area runoff from the Central Pit, located in the SWSE Sections 9 and 16, T42N R70W and will discharge into Trussler Creek.

017 The outfall from the Wastewater Reservoir 1A, which will receive disturbed area runoff from the facilities area and process water from the facilities, located in the NWNE Section 9, T42N R70W and will discharge into Trussler Creek. This site is formerly associated with the North Rochelle Mine.

018 The outfall from the Wastewater Reservoir No. 2, which will receive disturbed area runoff from the facilities area, located in the NWNW Section 9, T42N R70W and will discharge into Trussler Creek. This site is formerly associated with the North Rochelle Mine.

020 The outfall from the SP-12Reservoir, which will receive disturbed area runoff from the Mackay Pit, located in the NESW Section 18, T42N, R69W and will discharge into Stephens Draw, tributary to School Creek.

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, WYPDES Program (307) 777-7781 as soon as possible, but no later than 24 hours from the time the permittee first became aware of the circumstances.

(1) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(2) Any upset which exceeds any effluent limitation in the permit; or

(3) Violation of a maximum daily discharge limitation for any toxic pollutants or hazardous substances, or any pollutants specifically identified as the method to control a toxic pollutant or hazardous substance listed in the permit.

e. The administrator of the Water Quality Division may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Quality Division, WYPDES Program (307) 777-7781.

f. Reports shall be submitted to the Wyoming Department of Environmental Quality at the address in Part I under Reporting and to the Planning and Targeting Program, 8ENF-PT, Office of Enforcement, Compliance, and Environmental Justice, U.S. EPA Region 8, 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. (L) 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/1) 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/1) 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. See the Wyoming Environmental Quality Act §35-11-312 for further information.

PART III

A. OTHER REQUIREMENTS

1. Flow Measurement

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

2. 208(b) Plans

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

3. Reopener Provision

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

a. The state water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit;

b. A total maximum daily load (TMDL) and/or watershed management plan is developed and approved by the state and/or the Environmental Protection Agency which specifies a wasteload allocation for incorporation in this permit;

c. A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit;

d. Downstream impairment is observed and the permitted facility is contributing to the impairment;

e. The limits established by the permit no longer attain and/or maintain applicable water quality standards;

f. The permit does not control or limit a pollutant that has the potential to cause or contribute to a violation of a state water quality standard.

g. If new applicable effluent guidelines and/or standards have been promulgated and the standards are more stringent than the effluent limits established by the permit.

h. In order to protect water quality standards in neighboring states, effluent limits may be incorporated into this permit or existing limits may be modified to ensure that the appropriate criteria, water quality standards and assimilative capacity are attained.

4. Permit Modification

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

a. Violation of any terms or conditions of this permit;

b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;

c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; or

d. If necessary to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b) (2) (C) and (D), 304 (b) (2) and 307 (a) (2) of the federal act, if the effluent standard or limitation so issued or approved:

(1) Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or

(2) Controls any pollutant not limited in the permit.

5. Toxicity Limitation - Reopener Provision

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

a. Toxicity was detected late in the life of the permit near or past the deadline for compliance;

b. The toxicity reduction evaluation (TRE) results indicate that compliance with the toxic limits will require an implementation schedule past the date for compliance and the permit issuing authority agrees with the conclusion;

c. The TRE results indicate that the toxicant(s) represent pollutant(s) that may be controlled with specific numerical limits and the permit issuing authority agrees that numerical controls are the most appropriate course of action;

d. Following the implementation of numerical controls on toxicants, the permit issuing authority agrees that a modified whole effluent protocol is necessary to compensate for those toxicants that are controlled numerically;

e. The TRE reveals other unique conditions or characteristics which, in the opinion of the permit issuing authority, justify the incorporation of unanticipated special conditions in the permit.

6. Severability

The provisions of this permit are severable and if any provision of this permit, or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit, shall not be affected thereby.

7. Penalties for Falsification of Reports

The federal act provides that any person who knowingly makes any false statement, representation or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation or by imprisonment for not more than two years per violation or both.