

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

STATEMENT OF BASIS

RENEWAL

APPLICANT NAME: Wyoming Game and Fish Department

MAILING ADDRESS: 8200 Speas Road
Casper, WY 82604

FACILITY LOCATION: Dan Speas Fish Hatchery, which is located in SENW Section 10,
Township 32N, Range 81W, Natrona County. The wastewater will
discharge to North Platte River (1).

NUMBER: WY0002011

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. Revised language regarding access to the facility is in Part II.B.1 of the permit.*

The Wyoming Game and Fish Department is the operator of the Dan Speas Fish Hatchery located in Natrona County, Wyoming. The facility is designed so that there is constant flow of water through the various raceways and ponds. After the water has flowed through the raceways, it is discharged to North Platte River (1).

As water moves through the ponds and raceways, the water quality is degraded because of increased suspended solids. The increased total suspended solids (TSS) concentration has been attributed to such activities as uneaten food and fish waste. Increased degradation also occurs during cleaning of the fish holding facilities. Cleaning activities involve flushing and scrubbing of the raceways.

Only facilities with production greater than 100,000 pounds require permitting under Federal Effluent Guidelines per 40 CFR Part 451, Concentrated Aquatic Animal Production Point Source Category. The application for this facility has been reviewed to determine applicability with Federal Effluent Guidelines and Standards. Concentrated aquatic animal production activity at this facility is above 100,000 pounds production, therefore 40 CFR 451 does apply.

The permit requires the development of a best management practices plan as per Part I (B) of this permit, including solids control, materials storage, structural maintenance, recordkeeping, and training. This plan must be submitted to the DEQ/WQD within 180 days of issuance of this permit (August 31, 2018).

The permit also includes requirements for reporting of any investigational new animal drug (INAD) or any extra label drug use where such a use may lead to a discharge of the drug to waters of the U.S. Reporting is not required for an INAD or extra label drug use that has been previously approved by FDA

for a different species or disease if the INAD or extra label use is at or below the approved dosage and involves similar conditions of use. Also requiring reporting is failure in, or damage to, the structure of an aquatic animal containment system resulting in an unanticipated material discharge of pollutants to waters of the state. More information is included below and in Part I of the permit.

The following is a checklist of record-keeping requirements of the Concentrated Aquatic Animal Production effluent limit guidelines. The permittee is not required to submit this to the DEQ. However, the permittee must keep the records for a period of three years, available for review by the DEQ, as per Part II. B.12 of the permit. DEQ will provide the pertinent forms. However, facility may use existing record systems if available, so use of DEQ provided forms is optional.

Records for aquatic animal rearing units documenting feed amounts and estimates of the numbers and weights of aquatic animals in order to calculate representative feed conversion ratios (FCRs).

Records documenting frequency of cleaning.

Records documenting frequency of inspections, maintenance, and repairs.

Use the following checklist to see what other record-keeping is required to show DEQ that you are meeting the reporting and BMP plan requirements of the Concentrated Aquatic Animal Production effluent limit guidelines (e.g., solids control, training). DEQ will provide the pertinent forms. However, facility may use existing record systems if available, so use of DEQ provided forms is optional.

INAD – 7 Day Written Report

INAD and Extra label – 7 Day Oral Report

INAD & Extra label – 30 Day Written Report

Failure or Damage to the Structural Integrity of Containment Systems – 24 Hour Oral Report

Failure or Damage to the Structural Integrity of Containment Systems – 7 Day Written Report

Spills of Drugs, Pesticides, and Feed – 24 Hour Oral Report

Spills of Drugs, Pesticides, and Feed – 7 Day Written Report

Material Storage: Spills and Leaks Log

Cleaning Log

Employee Training Log

Carcass Removal

The previous paragraphs are intended to synopsize requirements in Part I of the permit.

As in previous permits issued, this permit contains requirements with effluent limitations judged by the State of Wyoming to represent “Best Practical Treatment” for this type of activity and Wyoming Water Quality Rules and Regulations. The development of effluent limits for this facility are described below:

The permit establishes effluent limitations on total suspended solids. Below is a description of the monitoring and reporting requirements for this permit.

1. Instantaneous maximum limitation for total suspended solids during normal operation is based upon the following calculation:

Maximum weight of food used per day (1150 kg) X .75 (one kilogram of food results in .75 kilogram of TSS) X .8 (best practicable treatment of 20% removal of TSS)
2. Instantaneous maximum limitations for total suspended solids during raceway cleaning are based on the following calculation:

Facility is a “Continuously Cleaning” facility, so separate effluent limits for cleaning operations are not included.
3. Self monitoring and reporting is required on a semi-annual basis.
4. The permit requires self monitoring samples to be collected during April (to represent heaviest load) and November (to represent lightest load).
5. The permit contains language which requires any dirt ponds to be cleaned no more than once per year and that such cleaning is done in a manner that minimizes water quality impacts on the receiving streams.
6. Note that conversion from mg/L to kg/d: $\text{Flow(MGD)} \times \text{concentration (mg/L)} \times 3.79 = \text{kg/d}$

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 included on the this list for selenium impairment; however the impairment begins downstream from this facility outfall and the discharge is not considered to be a source of the impairment.

Self monitoring of effluent quality and quantity is required on a regular basis with reporting of results semiannually. The permit is scheduled to expire on January 31, 2023.

Roland Peterson
Water Quality Division
Department of Environmental Quality
September 13, 2017

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,

Wyoming Game and Fish Department

is authorized to discharge from the wastewater treatment facilities serving the

Dan Speas Fish Hatchery,

located in

SENW Section 10, Township 32N, Range 81W, Natrona County

to receiving waters named

North Platte River (1).

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 February 1, 2018.

This permit and the authorization to discharge shall expire January 31, 2023 at midnight.

Kevin Frederick, Administrator
Water Quality Division

Todd Parfitt, Director
Department of Environmental Quality

Date of Issuance: _____

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Effective February 1, 2018 and lasting through January 31, 2023, 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.

2. The total pollutant discharge of all discharge points shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitation</u>
	<u>Daily Maximum</u>
Net Total Suspended Solids (during normal operation), kg/day	690
Net Total Suspended Solids (during raceway cleaning), kg/day	N/A
pH, Standard Units	6.5-9.0

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

There shall be no discharge of floating solids or visible foam in other than trace amounts.

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.

Dirt ponds shall be cleaned no more than once per year and shall be cleaned in such a manner as to minimize adverse impact on the receiving stream.

<u>Monitoring Requirements *</u>		
<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow – MGD, normal operation	Semi-annual	Instantaneous
Flow, MGD, during raceway cleaning (Alternate Process)	Semi-annual	Instantaneous
Total Suspended Solids, intake, mg/L	Semi-annual	Grab
Total Suspended Solids, effluent, mg/L (during normal operation)	Semi-annual	Grab
Net Total Suspended Solids ^{(1) (2)} (during normal operation), kg/d	Semi-annual	Calculated
pH, standard units	Semi-annual	Grab

(1) Net total suspended solids=total suspended solids effluent (mg/L) minus total suspended solids influent (mg/L).

(2) Conversion from mg/L to kg/d: Flow(MGD)*concentration (mg/L) *3.79=kg/d

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

* Samples collected during the first half of the calendar year shall be collected in April.
Samples collected during the second half of the calendar year shall be collected in November.

B. GENERAL REPORTING REQUIREMENTS

1. Drugs. Except as noted below, a permittee subject to this Part must notify the permitting authority of the use in a concentrated aquatic animal production facility subject to this Part of any investigational new animal drug (INAD) or any extra label drug use where such a use may lead to a discharge of the drug to waters of the U.S. Reporting is not required for an INAD or extra label drug use that has been previously approved by FDA for a different species or disease if the INAD or extra label use is at or below the approved dosage and involves similar conditions of use.
 - a. The permittee must provide a written report to the permitting authority of an INAD's impending use within 7 days of agreeing or signing up to participate in an INAD study. The written report must identify the INAD to be used, method of use, the dosage, and the disease or condition the INAD is intended to treat.
 - b. For INADs and extra label drug uses, the permittee must provide an oral report to the permitting authority as soon as possible, preferably in advance of use, but no later than 7

days after initiating use of that drug. The oral report must identify the drugs used, method of application, and the reason for using that drug.

- c. For INADs and extra label drug uses, the permittee must provide a written report to the permitting authority within 30 days after initiating use of that drug. The written report must identify the drug used and include: the reason for treatment, date(s) and time(s) of the addition (including duration), method of application; and the amount added.
2. Failure in, or damage to, the structure of an aquatic animal containment system resulting in an unanticipated material discharge of pollutants to waters of the U.S. In accordance with the following procedures, any permittee subject to this Part must notify the permitting authority when there is a reportable failure.
 - a. The permitting authority may specify in the permit what constitutes reportable damage and/or a material discharge of pollutants, based on a consideration of production system type, sensitivity of the receiving waters and other relevant factors.
 - b. For failure or damage that results in a material discharge of pollutants, describing the cause of the failure or damage in the containment system and identifying materials that have been released to the environment as a result of this failure.
 - c. The permittee must provide a written report within 7 days of discovery of the failure or damage documenting the cause, the estimated time elapsed until the failure or damage was repaired, an estimate of the material released as a result of the failure or damage, and steps being taken to prevent a recurrence.
 3. In the event a spill of drugs, pesticides or feed occurs that results in a discharge to waters of the U.S., the permittee must provide an oral report of the spill to the permitting authority within 24 hours of its occurrence and a written report within 7 days. The report shall include the identity and quantity of the material spilled.
 4. Best management practices (BMP) plan.
 - a. Develop and maintain a plan on site describing how the permittee will achieve the requirements of Part I. D of this permit.
 - b. Make the plan available to the permitting authority upon request.
 - c. The permittee subject to this Part must certify in writing to the permitting authority that a BMP plan has been developed.

C. OTHER REQUIREMENTS

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must meet the following requirements, expressed as practices (or any modification to these requirements as determined by the permitting authority based on its exercise of its best professional judgment) representing the application of BPT:

1. Solids control.

- a. Employ efficient feed management and feeding strategies that limit feed input to the minimum amount reasonably necessary to achieve production goals and sustain targeted rates of aquatic animal growth in order to minimize potential discharges of uneaten feed and waste products to waters of the U.S.
 - b. In order to minimize the discharge of accumulated solids from settling ponds and basins and production systems, identify and implement procedures for routine cleaning of rearing units and off-line settling basins, and procedures to minimize any discharge of accumulated solids during the inventorying, grading and harvesting aquatic animals in the production system.
 - c. Remove and dispose of aquatic animal mortalities properly on a regular basis to prevent discharge to waters of the U.S., except in cases where the permitting authority authorizes such discharge in order to benefit the aquatic environment.
2. Materials storage.
- a. Ensure proper storage of drugs, pesticides, and feed in a manner designed to prevent spills that may result in the discharge of drugs, pesticides or feed to waters of the U.S.
 - b. Implement procedures for properly containing, cleaning, and disposing of any spilled material.
3. Structural maintenance.
- a. Inspect the production system and the wastewater treatment system on a routine basis in order to identify and promptly repair any damage.
 - b. Conduct regular maintenance of the production system and the wastewater treatment system in order to ensure that they are properly functioning.
4. Recordkeeping.
- a. In order to calculate representative feed conversion ratios, maintain records for aquatic animal rearing units documenting the feed amounts and estimates of the numbers and weight of aquatic animals.
 - b. Keep records documenting the frequency of cleaning, inspections, maintenance and repairs.
5. Training.
- a. In order to ensure the proper clean-up and disposal of spilled material adequately train all relevant facility personnel in spill prevention and how to respond in the event of a spill.
 - b. Train staff on the proper operation and cleaning of production and wastewater treatment systems including training in feeding procedures and proper use of equipment.

D. BEST MANAGEMENT PRACTICES PLAN

This facility shall develop and implement a site-specific **best management practices plan**, to be developed and submitted to the DEQ by March 31, 2011. At a minimum, a best management practices plan must include best management practices (BMP) and procedures necessary to implement applicable effluent limitations and standards. The specific BMP plan covered by this permit must be developed within 60 days of the effective date of this permit. The following must be provided on the BMP plan, as required by 40 CFR 451.11. a-e. :

1. Description of Facility

Provide a description of the facility. This description may include the following types of information:

- Type of fish produced
- Annual amount of fish produced
- When the facility was constructed
- What type of systems (e.g., flow-through) are used at the facility
- Information about the systems (12 feet long raceways, etc.)
- Number of discharge points
- A diagram/map of the facility is helpful to illustrate the layout of the operation.

2. Water Source

Include a description of the source of the water at the facility. This description may include the following information:

- Type of source – stream, ground, spring, etc.
- Name of the source (e.g., Upper Spring)
- If available, information about the quality of the water source (e.g., low in TSS)
- How the water arrives at the facility (e.g., ditch)
- Anything the facility does to treat incoming water (e.g., an inflow trash rack screen is used to catch vegetation from the spring and ditch prior to entering the facility. The trash rack screen is cleaned at least daily to prevent vegetation from affecting the water flow to facility)

3. Treatment System(s) Used

Describe the treatment systems used at the facility. This description may include the following information:

- Type of treatment system
- Design flow
- Normal operation
- Cleaning procedures
- Maintenance procedures

Other Information

Provide any other additional information that might be useful to the permitting authority (e.g., additional information about how water flows into the facility or about oxygen recharge). In the following sections, describe in detail how you will achieve the specific requirements of the Concentrated Aquatic Animal Production effluent limit guidelines. Where helpful, you might attach example logs/forms used at the facility to physically show the permitting authority how you are complying with the Concentrated Aquatic Animal Production effluent limit guidelines.

5. Solids Control

- a. Efficient feed management (to limit feed input to the minimum amount reasonably necessary to achieve production goals and sustain targeted rates of aquatic animal growth).
- b. Describe the practices the facility uses to achieve efficient feed management. DEQ will provide the pertinent forms. However, facility may use existing record systems if available, so use of DEQ provided forms is optional.
- c. Remove and dispose of aquatic animal mortalities properly on a regular basis to prevent discharge to waters of the United States (except where authorized by the permitting authority in order to benefit the aquatic environment).
- d. Describe the procedures for removal and disposal. A DEQ form for tracking carcass removal and disposal is available.

6. Material Storage

A DEQ form for tracking spills and leaks at the facility is available.

- a. Proper storage of drugs, pesticides, and feed to prevent spills that may result in the discharge to waters of the United States.
 - Describe the practices used.
- b. Procedures for properly containing, cleaning, and disposing of any spilled materials.
 - Describe the procedures used.

3. Maintenance

DEQ forms for tracking inspection and maintenance are available.

- a. Routinely inspect production systems and wastewater treatment systems to identify and promptly repair damage.
 - Describe the routine inspections performed. Also describe how the facility defines “routine.”
- b. Regularly conduct maintenance of production systems and wastewater treatment systems to ensure their proper function.

- Describe the regular maintenance performed. Also describe how the facility defines “regular.”

8. Record-keeping

- a. Maintain records for aquatic animal rearing units documenting feed amounts and estimates of the numbers and weights of aquatic animals in order to calculate representative feed conversion ratios.
- Describe the records the facility keeps for documenting feed amounts and estimates of aquatic animals for calculating FCRs.
 - A DEQ form for tracking and calculating FCRs is available. FCRs are calculated with the following equation:

$$\text{Dry weight of feed applied} \div \text{Wet weight of fish gained}$$

- b. Keep records documenting frequency of cleaning, inspections, maintenance, and repairs.
- Describe the records the facility keeps to document this. DEQ forms for tracking inspection, maintenance, and repairs; and a form for tracking of cleaning, are available.

9. Training

- a. Train all relevant personnel in spill prevention and how to respond in the event of a spill to ensure proper clean-up and disposal of spilled materials.
- Describe the procedures for training personnel in spill prevention and response.
- b. Train personnel on proper operation and cleaning of production and wastewater treatment systems, including feeding procedures and proper use of equipment.
- Describe the procedures for training personnel on proper operation and cleaning.

10. Review and Endorsement of the BMP Plan

- The permittee must certify in writing to the permitting authority that a BMP plan has been developed, as per Signatory Requirements, Part II A. 11 of the permit.

11. Certifying the BMP Plan with the Permitting Authority

Once the BMP plan has been developed and the signatories responsible for implementing the BMP plan have reviewed and endorsed the plan, you must do the following:

- a. Keep a copy of the BMP plan in the records. The plan must be made available to the permitting authority (Wyoming DEQ) upon request.
- b. Send a signed letter/form to the permitting authority stating that you have developed a BMP plan.

The letter/form should include the name and title, name of the facility, NPDES number, and date the BMP plan was developed. An example certification form that may be submitted to the permitting authority is available in from DEQ.

E. MONITORING AND REPORTING

1. Representative Sampling

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

2. Reporting

Effluent monitoring results obtained during the previous six month(s) shall be summarized and reported on a Discharge Monitoring Report Form. If the permit requires whole effluent toxicity (WET) (biomonitoring) testing, WET test results must be reported on the most recent version of EPA Region VIII's Guidance for Whole Effluent Reporting. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part II.A.11.), and submitted to the state water pollution control agency at the following address received no later than the 28th day of the month following the completed reporting period. The first report is due on July 28, 2018.

Wyoming Department of Environmental Quality
Water Quality Division
200 West 17th Street
Cheyenne, WY 82002
Telephone: (307) 777-7781

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

3. Definitions

- a. A "composite" sample, for monitoring requirements, is defined as a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow.
- b. The "daily maximum" shall be determined by the analysis of a single grab or composite sample.
- c. An "instantaneous" measurement for monitoring requirements is defined as a single reading, measurement, or observation.
- d. "MGD", for monitoring requirements, is defined as million gallons per day.

- e. 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.
- f. "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.
- g. 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.
- h. The "weekly average" shall be determined by calculating the arithmetic mean (geometric mean in the case of fecal coliform) of all composite and/or grab samples collected during any week.

4. Test Procedures

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

5. Recording of Results

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

- a. The exact place, date and time of sampling;
- b. The dates and times the analyses were performed;
- c. The person(s) who performed the analyses 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.

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Dan Speas Fish Hatchery
 WY0002011

TABLE 1

Outfall	Qtr/Qtr	Section	Township-North	Range-West	Latitude	Longitude	Receiving Water
001	SENW	10	32	81	42.75589	-106.52843	North Platte River (class 1 water)

PART II

A. MANAGEMENT REQUIREMENTS

1. Changes

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

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

2. Noncompliance Notification

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

The written submission shall contain:

- (1) A description of the noncompliance and its cause;
 - (2) The period of noncompliance, including exact dates and times;
 - (3) The estimated time noncompliance is expected to continue if it has not been corrected; and
 - (4) Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
- d. The following occurrences of unanticipated noncompliance shall be reported by telephone to the Water Quality Division, Watershed Management Section, WYPDES Program (307) 777-7781 as soon as possible, but no later than 24 hours from the time the permittee first became aware of the circumstances.

- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - (2) Any upset which exceeds any effluent limitation in the permit; or
 - (3) Violation of a maximum daily discharge limitation for any toxic pollutants or hazardous substances, or any pollutants specifically identified as the method to control a toxic pollutant or hazardous substance listed in the permit.
- e. The administrator of the Water Quality Division may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Quality Division, WYPDES Program (307) 777-7781.
- f. Reports shall be submitted to the Wyoming Department of Environmental Quality at the address in Part I under Reporting and to the Planning and Targeting Program, 8ENF-PT, Office of Enforcement, Compliance, and Environmental Justice, U.S. EPA Region 8, 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. A. Providing Access

The permittee shall allow Department of Environmental Quality personnel and their invitees to enter the premises where the facility is located, or where records are kept under the conditions of this permit, and collect resource data as defined by Wyoming Statute § 6-3-414, inspect and photograph the facility, collect samples for analysis, review records, and perform any other function authorized by law or regulation. The permittee shall secure and maintain such access for the duration of the permit.

If the facility is located on property not owned by the permittee, the permittee shall also secure and maintain from the landowner upon whose property the facility is located permission for Department of Environmental Quality personnel and their invitees to enter the premises where a regulated facility is located, or where records are kept under the conditions of this permit, and collect resource data as defined by Wyoming Statute § 6-3-414, inspect and photograph the facility, collect samples for analysis, review records, and perform any other function authorized by law. The permittee shall secure and maintain such access for the duration of the permit.

If the facility cannot be directly accessed using public roads, the permittee shall also secure and maintain permission for Department of Environmental Quality personnel and their invitees to enter and cross all properties necessary to access the facility. The permittee shall secure and maintain such access for the duration of the permit.

B. Access Records

The permittee shall maintain in its records documentation that demonstrates that the permittee has secured permission for Department of Environmental Quality personnel and their invitees to access the permitted facility, including (i) permission to access the land where the facility is located, (ii) permission to collect resource data as defined by Wyoming Statute § 6-3-414, and (iii) permission to enter and cross all properties necessary to access the facility if the facility cannot be directly accessed from a public road. The permittee shall also maintain in its records a current map of the access route(s) to the facility and contact information for the owners or agents of all properties that must be crossed to access the facility. The permittee shall ensure that the documentation, map, and contact information are current at all times. The permittee shall provide the

documentation, map, and contact information to Department of Environmental Quality personnel upon request. Upon termination of the permit, the permittee shall maintain such records for a period of three (3) years.

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.

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.