



Montana Department of  
**ENVIRONMENTAL QUALITY**

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July 2, 2009

Anne Miller  
Western Emulsions, Inc.  
3450 East 36<sup>th</sup> Street  
Tucson, Arizona 85713

Dear Ann Miller:

Montana Air Quality Permit #3866-01 is deemed final as of July 2, 2009, by the Department of Environmental Quality (Department). This permit is for a asphalt emulsion terminal. All conditions of the Department's Decision remain the same. Enclosed is a copy of your permit with the final date indicated.

For the Department,

Vickie Walsh  
Air Permitting Program Supervisor  
Air Resources Management Bureau  
(406) 444-9741

Ed Warner  
Environmental Engineer  
Air Resources Management Bureau  
(406) 444-2467

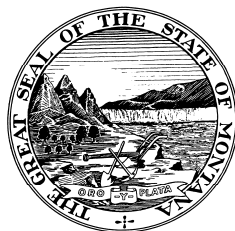
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Enclosure

Montana Department of Environmental Quality  
Permitting and Compliance Division

Montana Air Quality Permit #3866-01

Western Emulsions, Inc.  
3450 East 36<sup>th</sup> Street  
Tucson, Arizona 85713

July 2, 2009



## MONTANA AIR QUALITY PERMIT

Issued To: Western Emulsions, Inc.                      Montana Air Quality Permit: #3866-01  
3450 East 36<sup>th</sup> Street                                      Administrative Amendment (AA)  
Tucson, AZ 85713    Request Received: May 8, 2009  
Department Decision on AA: June 15, 2009  
Permit Final: July 2, 2009  
AFS #: 111-0038

A Montana Air Quality Permit (MAQP), with conditions, is hereby granted to Western Emulsions, Inc. (WEI), pursuant to Sections 75-2-204 and 211 of the Montana Code Annotated (MCA), as amended, and Administrative Rules of Montana (ARM) 17.8.740, *et seq.*, as amended, for the following:

### SECTION I: Permitted Facilities

WEI operates an asphalt emulsion terminal. Primary terminal activities include receiving and storage of asphalt cement (AC), asphalt additives, and number 2 fuel oil; production and storage of asphalt emulsions (AE) and emulsion cutback (EC); loading of trucks with AC, AE, and EC; operation of a thermal oil heat transfer system; and associated cleaning and maintenance activities. A complete list of permitted equipment is contained in Section I of the permit analysis.

#### A. Plant Location

The WEI facility is located at 7315 Mossmain Lane, Billings, Montana 59106. The legal description of the site is Section 1, Township 2 South, Range 24 East, in Yellowstone County, Montana. The Universal Transverse Mercator (UTM) coordinates of the site are Zone 12T, 678.680 kilometers (km) easting, 5061.674 km northing.

#### B. Current Permit Action

On May 8, 2009, the Montana Department of Environmental Quality – Air Resources Management Bureau (Department) received a letter from SemMaterials Energy Partners, LLC (SEP) providing notification of a change in ownership from SemMaterials, L.P. to SEP. The SEP letter indicated that the facility and equipment will be leased and operated by WEI and that the MAQP will be transferred to WEI. On May 8, 2009, the Department received a letter from WEI providing notification that WEI will lease and operate the facility and equipment as well as hold the MAQP for the facility. Neither letter indicated any changes in equipment, operations, or air emissions as a result of this action. In accordance with ARM 17.8.765(2), the current permitting action transfers the MAQP to WEI and updates the MAQP to reflect to current language and rule references used by the Department.

### SECTION II: Conditions and Limitations

#### A. Operating and Emission Limitations

1. The AE/EC truck loading rack(s) shall be limited to a maximum throughput capacity of 183,960,000 gallons of product during any rolling 12-month time period (ARM 17.8.749).
2. EC production shall be limited to a maximum concentration of 35% number 2 fuel oil or 20% 142 solvent (ARM 17.8.749).

3. WEI shall not use number 2 fuel oil and 142 solvent concurrently to produce EC (ARM 17.8.749).
4. The hot oil heater shall combust only pipeline quality natural gas (ARM 17.8.752).
5. At all times WEI shall, to the extent practicable, maintain and operate the asphalt product storage tanks and asphalt product loading racks in a manner consistent with good air pollution control practices for minimizing volatile organic compound (VOC) emissions including, but not limited to, the maintenance of equipment seals, flanges, and gaskets, etc., as applicable (ARM 17.8.752).
6. WEI shall not cause or authorize emissions to be discharged into the outdoor atmosphere from any sources installed after November 23, 1968, that exhibit an opacity of 20% or greater averaged over 6 consecutive minutes (ARM 17.8.304).
7. WEI shall not cause or authorize the use of any street, road, or parking lot without taking reasonable precautions to control emissions of airborne particulate matter (ARM 17.8.308).
8. WEI shall treat all unpaved portions of the haul roads, access roads, parking lots, or general plant area with water and/or chemical dust suppressant as necessary to maintain compliance with the reasonable precautions limitation in Section II.A.7 (ARM 17.8.749).
9. WEI shall comply with all applicable standards and limitations, and the reporting, recordkeeping and notification requirements contained in 40 CFR 60, Subpart Dc (ARM 17.8.340 and 40 CFR 60, Subpart Dc).

B. Testing Requirements

1. All compliance source tests shall conform to the requirements of the Montana Source Test Protocol and Procedures Manual (ARM 17.8.106).
2. The Department of Environmental Quality (Department) may require testing (ARM 17.8.105).

C. Operational Reporting Requirements

1. WEI shall supply the Department with annual production information for all emission points, as required by the Department in the annual emission inventory request. The request will include, but is not limited to, all sources of emissions identified in the emission inventory contained in the permit analysis.

Production information shall be gathered on a calendar-year basis and submitted to the Department by the date required in the emission inventory request. Information shall be in the units required by the Department. This information may be used to calculate operating fees, based on actual emissions from the facility, and/or to verify compliance with permit limitations (ARM 17.8.505).

2. WEI shall notify the Department of any construction or improvement project conducted, pursuant to ARM 17.8.745, that would include *the addition of a new emissions unit*, change in control equipment, stack height, stack diameter, stack flow, stack gas temperature, source location, or fuel specifications, or would result in an increase in source capacity above its permitted operation. The notice must be

submitted to the Department, in writing, 10 days prior to startup or use of the proposed de minimis change, or as soon as reasonably practicable in the event of an unanticipated circumstance causing the de minimis change, and must include the information requested in ARM 17.8.745(1)(d) (ARM 17.8.745).

3. All records compiled in accordance with this permit must be maintained by WEI as a permanent business record for at least 5 years following the date of the measurement, must be available at the plant site for inspection by the Department, and must be submitted to the Department upon request (ARM 17.8.749).
4. WEI shall document, by month, the product throughput for the AE/EC truck loading rack(s). By the 25<sup>th</sup> day of each month, WEI shall total the product throughput for the previous month. The monthly information will be used to verify compliance with the rolling 12-month limitation in Section II.A.1. The information for each of the previous months shall be submitted along with the annual emission inventory (ARM 17.8.749).
5. WEI shall maintain EC production records monitoring compliance with the number 2 fuel oil and Solvent 142 concentration limitation(s) in Section II.A.2. The records shall be submitted to the Department upon request (ARM 17.8.749).

### SECTION III: General Conditions

- A. Inspection – WEI shall allow the Department’s representatives access to the source at all reasonable times for the purpose of making inspections or surveys, collecting samples, obtaining data, auditing any monitoring equipment (CEMS, CERMS) or observing any monitoring or testing, and otherwise conducting all necessary functions related to this permit.
- B. Waiver – The permit and the terms, conditions, and matters stated herein shall be deemed accepted if WEI fails to appeal as indicated below.
- C. Compliance with Statutes and Regulations – Nothing in this permit shall be construed as relieving WEI of the responsibility for complying with any applicable federal or Montana statute, rule, or standard, except as specifically provided in ARM 17.8.740, *et seq.* (ARM 17.8.756).
- D. Enforcement – Violations of limitations, conditions and requirements contained herein may constitute grounds for permit revocation, penalties, or other enforcement action as specified in Section 75-2-401, *et seq.*, MCA.
- E. Appeals – Any person or persons jointly or severally adversely affected by the Department’s decision may request, within 15 days after the Department renders its decision, upon affidavit setting forth the grounds therefor, a hearing before the Board of Environmental Review (Board). A hearing shall be held under the provisions of the Montana Administrative Procedures Act. The filing of a request for a hearing does not stay the Department’s decision, unless the Board issues a stay upon receipt of a petition and a finding that a stay is appropriate under Section 75-2-211(11)(b), MCA. The issuance of a stay on a permit by the Board postpones the effective date of the Department’s decision until conclusion of the hearing and issuance of a final decision by the Board. If a stay is not issued by the Board, the Department’s decision on the application is final 16 days after the Department’s decision is made.

- F. Permit Inspection – As required by ARM 17.8.755, Inspection of Permit, a copy of the air quality permit shall be made available for inspection by the Department at the location of the source.
- G. Permit Fee – Pursuant to Section 75-2-220, MCA, failure to pay the annual operation fee by WEI may be grounds for revocation of this permit, as required by that section and rules adopted thereunder by the Board.
- H. Duration of Permit – Construction or installation must begin or contractual obligations entered into that would constitute substantial loss within 3 years of permit issuance and proceed with due diligence until the project is complete or the permit shall expire (ARM 17.8.762).

Permit Analysis  
Western Emulsions, Inc.  
Montana Air Quality Permit #3866-01

I. Introduction/Process Description

Western Emulsions, Inc. (WEI) owns and operates an asphalt emulsion terminal. The terminal receives asphalt cement (AC) by truck and stores the AC in storage tanks. A variety of chemicals, including caustic and acids, are also stored in tanks. The chemicals are mixed in a batch tank to produce various types of soap, which are stored in soap tanks. The soaps are mixed with the AC in the AC mix tank, producing an asphalt emulsion (AE). AE is stored in tanks and loaded out to trucks at the truck loading rack. Trucks enter and leave the facility via unpaved plant roadways. Emulsion cutback (EC) with a number 2 fuel oil concentration up to 35% or Solvent 142 concentration up to 20% is produced at the facility and loaded-out directly to trucks via a loading rack. The material storage tanks are heated by a natural gas-fired thermal oil system with a maximum heat input capacity of 10.5 million British thermal units per hour (MMBtu/hr). Heat is transferred to the thermal oil, which is circulated to the tanks in order to maintain a minimum temperature requirement for the respective tank.

A. Permitted Equipment

A complete list of permitted equipment follows:

- 7 AC Storage Tanks
- 1 Asphalt Mix Tank
- 3 EC Storage Tanks
- 8 AE Storage Tanks
- 9 Chemical Storage Tanks
- 1 Number 2 Fuel Oil Tank
- 4 Soap Tanks
- 2 Water Tanks
- 1 Batch Tank
- 1 Injection Tank
- 1 Cook-Off Tank
- 1 Natural Gas-Fired Hot Oil Heater
- 1 AE/EC Truck Loading Rack
- 1 AC Truck Loading Rack
- Miscellaneous Support Equipment

Ancillary operations include equipment maintenance, non-halogenated solvent cleaning in remote reservoir parts washer, operation of a water softening system, small combustion sources (i.e., propane torches, diesel welders), sand blasting, painting, and a quality assurance/quality control laboratory.

B. Source Description

The WEI facility is located at 7315 Mossmain Lane, Billings, Montana 59106. The legal description of the site is Section 1, Township 2 South, range 24 East, in Yellowstone County, Montana. The UTM Coordinates of the site are Zone 12T, 678.680 kilometers (km) easting, 5061.674 km northing.

Primary terminal activities include receiving and storage of AC, asphalt additives, and number 2 fuel oil; production and storage of AE and EC; loading of trucks with AC, AE, and EC; operation of a natural gas-fired thermal oil heat transfer system; and associated cleaning and maintenance activities.

#### C. Permit History

On July 7, 2006, the Montana Department of Environmental Quality – Air Resources Management Bureau (Department) received a Montana Air Quality Permit (MAQP) application from SemMaterials, LP for an asphalt emulsion terminal. The facility had been previously operating as an insignificant source of emissions that did not require an MAQP. SemMaterials, L.P. planned on facility upgrades which would allow them the flexibility to produce a wider variety of EC by using higher percentages of number 2 fuel oil or 142 solvent. These anticipated process variations would result in the potential to emit (PTE) more than 25 tons per year (TPY) of volatile organic compounds (VOC). The Administrative Rules of Montana (ARM) 17.8.743 states that an MAQP is required for any facility that has a PTE of more than 25 TPY of any airborne pollutant. Therefore, SemMaterial, LP applied for an MAQP which would provide the facility the operating flexibility to perform the anticipated process variations in compliance with the Department’s air quality program. **MAQP #3866-00** became final on November 17, 2006.

#### D. Current Permit Action

On May 8, 2009, the Department received a letter from SemMaterials Energy Partners, LLC (SEP) providing notification of a change in ownership from SemMaterials, L.P. to SEP. The SEP letter indicated that the facility and equipment will be leased and operated by WEI and that the MAQP will be transferred to WEI. On May 8, 2009, the Department received a letter from WEI providing notification that WEI will lease and operate the facility and equipment as well as hold the MAQP for the facility. Neither letter indicated any changes in equipment, operations, or air emissions as a result of this action. In accordance with ARM 17.8.765(2), the current permitting action transfers the MAQP to WEI and updates the MAQP to reflect to current language and rule references used by the Department. **MAQP #3866-01** replaces MAQP #3866-00.

### II. Applicable Rules and Regulations

The following are partial explanations of some applicable rules and regulations that apply to the facility. The complete rules are stated in the ARM and are available, upon request, from the Department. Upon request, the Department will provide references for location of complete copies of all applicable rules and regulations or copies where appropriate.

#### A. ARM 17.8, Subchapter 1 – General Provisions, including but not limited to:

1. ARM 17.8.101 Definitions. This rule includes a list of applicable definitions used in this chapter, unless indicated otherwise in a specific subchapter.
2. ARM 17.8.105 Testing Requirements. Any person or persons responsible for the emission of any air contaminant into the outdoor atmosphere shall, upon written request of the Department, provide the facilities and necessary equipment (including instruments and sensing devices) and shall conduct tests, emission or ambient, for such periods of time as may be necessary using methods approved by the Department.



3. ARM 17.8.106 Source Testing Protocol. The requirements of this rule apply to any emission source testing conducted by the Department, any source or other entity as required by any rule in this chapter, or any permit or order issued pursuant to this chapter, or the provisions of the Clean Air Act of Montana, 75-2-101, *et seq.*, Montana Code Annotated (MCA).

WEI shall comply with the requirements contained in the Montana Source Test Protocol and Procedures Manual, including, but not limited to, using the proper test methods and supplying the required reports. A copy of the Montana Source Test Protocol and Procedures Manual is available from the Department upon request.

4. ARM 17.8.110 Malfunctions. (2) The Department must be notified promptly by telephone whenever a malfunction occurs that can be expected to create emissions in excess of any applicable emission limitation or to continue for a period greater than 4 hours.
5. ARM 17.8.111 Circumvention. (1) No person shall cause or permit the installation or use of any device or any means that, without resulting in reduction of the total amount of air contaminant emitted, conceals or dilutes an emission of air contaminant that would otherwise violate an air pollution control regulation. (2) No equipment that may produce emissions shall be operated or maintained in such a manner as to create a public nuisance.

B. ARM 17.8, Subchapter 2 – Ambient Air Quality, including, but not limited to the following:

1. ARM 17.8.204 Ambient Air Monitoring
2. ARM 17.8.210 Ambient Air Quality Standards for Sulfur Dioxide
3. ARM 17.8.211 Ambient Air Quality Standards for Nitrogen Dioxide
4. ARM 17.8.212 Ambient Air Quality Standards for Carbon Monoxide
5. ARM 17.8.213 Ambient Air Quality Standard for Ozone
6. ARM 17.8.214 Ambient Air Quality Standard for Hydrogen Sulfide
7. ARM 17.8.220 Ambient Air Quality Standard for Settled Particulate Matter
8. ARM 17.8.221 Ambient Air Quality Standard for Visibility
9. ARM 17.8.222 Ambient Air Quality Standard for Lead
10. ARM 17.8.223 Ambient Air Quality Standard for PM<sub>10</sub>

WEI must maintain compliance with the applicable ambient air quality standards.

C. ARM 17.8, Subchapter 3 – Emission Standards, including, but not limited to:

1. ARM 17.8.304 Visible Air Contaminants. This rule requires that no person may cause or authorize emissions to be discharged into the outdoor atmosphere from any source installed after November 23, 1968, that exhibit an opacity of 20% or greater averaged over 6 consecutive minutes.
2. ARM 17.8.308 Particulate Matter, Airborne. (1) This rule requires an opacity limitation of less than 20% for all fugitive emission sources and that reasonable precautions be taken to control emissions of airborne particulate matter. (2) Under this rule, WEI shall not cause or authorize the use of any street, road, or parking lot without taking reasonable precautions to control emissions of airborne particulate matter.
3. ARM 17.8.309 Particulate Matter, Fuel Burning Equipment. This rule requires that no person shall cause, allow, or permit to be discharged into the atmosphere particulate matter caused by the combustion of fuel in excess of the amount determined by this rule.

4. ARM 17.8.310 Particulate Matter, Industrial Process. This rule requires that no person shall cause, allow, or permit to be discharged into the atmosphere particulate matter in excess of the amount set forth in this rule.
  5. ARM 17.8.322 Sulfur Oxide Emissions--Sulfur in Fuel. This rule requires that no person shall burn liquid, solid, or gaseous fuel in excess of the amount set forth in this rule.
  6. ARM 17.8.324 Hydrocarbon Emissions--Petroleum Products. (3) No person shall load or permit the loading of gasoline into any stationary tank with a capacity of 250 gallons or more from any tank truck or trailer, except through a permanent submerged fill pipe, unless such tank is equipped with a vapor loss control device as described in (1) of this rule.
  7. ARM 17.8.340 Standard of Performance for New Stationary Sources and Emission Guidelines for Existing Sources. This rule incorporates, by reference, 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS). WEI is considered an NSPS affected facility under 40 CFR Part 60 and is subject to the requirements of the following subparts:
    - a. 40 CFR 60, Subpart A – General Provisions apply to all equipment or facilities subject to an NSPS Subpart as listed below:
    - b. 40 CFR 60, Subpart Dc, Standard of Performance for Fossil Fuel-Fired Steam Generators. This subpart applies to the natural gas-fired hot oil heater because the affected unit has the capability of firing fossil fuel at a heat input rate of more than 10 million British thermal unit per hour (MMBtu/hr) but less than 100 MMBtu/hr and otherwise meets the definition of an affected unit under this subpart.
- D. ARM 17.8, Subchapter 5 – Air Quality Permit Application, Operation, and Open Burning Fees, including, but not limited to:
1. ARM 17.8.504 Air Quality Permit Application Fees. This rule requires that an applicant submit an air quality permit application fee concurrent with the submittal of an air quality permit application. A permit application is incomplete until the proper application fee is paid to the Department. The current permit action is considered an administrative amendment and does not require an application fee.
  2. ARM 17.8.505 Air Quality Operation Fees. An annual air quality operation fee must, as a condition of continued operation, be submitted to the Department by each source of air contaminants holding an air quality permit (excluding an open burning permit) issued by the Department. The air quality operation fee is based on the actual or estimated actual amount of air pollutants emitted during the previous calendar year.
- An air quality operation fee is separate and distinct from an air quality permit application fee. The annual assessment and collection of the air quality operation fee, described above, shall take place on a calendar-year basis. The Department may insert into any final permit issued after the effective date of these rules, such conditions as may be necessary to require the payment of an air quality operation fee on a calendar-year basis, including provisions that prorate the required fee amount.
- E. ARM 17.8, Subchapter 7 – Permit, Construction, and Operation of Air Contaminant Sources, including, but not limited to:
1. ARM 17.8.740 Definitions. This rule is a list of applicable definitions used in this chapter, unless indicated otherwise in a specific subchapter.

2. ARM 17.8.743 Montana Air Quality Permits--When Required. This rule requires a person to obtain an air quality permit or permit modification to construct, modify, or use any air contaminant sources that have the PTE greater than 25 TPY of any pollutant. WEI has a PTE greater than 25 TPY of VOC; therefore, an air quality permit is required.
3. ARM 17.8.744 Montana Air Quality Permits--General Exclusions. This rule identifies the activities that are not subject to the Montana Air Quality Permit program.
4. ARM 17.8.745 Montana Air Quality Permits--Exclusion for De Minimis Changes. This rule identifies the de minimis changes at permitted facilities that do not require a permit under the MAQP Program.
5. ARM 17.8.748 New or Modified Emitting Units--Permit Application Requirements. (1) This rule requires that a permit application be submitted prior to installation, modification, or use of a source. The current permit action is considered an administrative amendment and, therefore, an application is not required. (7) This rule requires that the applicant notify the public by means of legal publication in a newspaper of general circulation in the area affected by the application for a permit. The current permit action is considered an administrative amendment and does not result in any change of air emissions from the facility; therefore, WEI was not required to submit a public notice.
6. ARM 17.8.749 Conditions for Issuance or Denial of Permit. This rule requires that the permits issued by the Department must authorize the construction and operation of the facility or emitting unit subject to the conditions in the permit and the requirements of this subchapter. This rule also requires that the permit must contain any conditions necessary to assure compliance with the Federal Clean Air Act (FCAA), the Clean Air Act of Montana, and rules adopted under those acts.
7. ARM 17.8.752 Emission Control Requirements. This rule requires a source to install the maximum air pollution control capability that is technically practicable and economically feasible, except that Best Available Control Technology (BACT) shall be utilized. The current permit action is considered an administrative amendment and does not result in any changes to the air emissions or emissions control devices at the facility; therefore, a BACT analysis was not required.
8. ARM 17.8.755 Inspection of Permit. This rule requires that air quality permits shall be made available for inspection by the Department at the location of the source.
9. ARM 17.8.756 Compliance with Other Requirements. This rule states that nothing in the permit shall be construed as relieving WEI of the responsibility for complying with any applicable federal or Montana statute, rule, or standard, except as specifically provided in ARM 17.8.740, *et seq.*
10. ARM 17.8.759 Review of Permit Applications. This rule describes the Department's responsibilities for processing permit applications and making permit decisions on those permit applications that do not require the preparation of an environmental impact statement.
11. ARM 17.8.762 Duration of Permit. An air quality permit shall be valid until revoked or modified, as provided in this subchapter, except that a permit issued prior to construction of a new or modified source may contain a condition providing that the permit will expire unless construction is commenced within the time specified in the permit, which in no event may be less than 1 year after the permit is issued.

12. ARM 17.8.763 Revocation of Permit. An air quality permit may be revoked upon written request of the permittee, or for violations of any requirement of the Clean Air Act of Montana, rules adopted under the Clean Air Act of Montana, the FCAA, rules adopted under the FCAA, or any applicable requirement contained in the Montana State Implementation Plan (SIP).
13. ARM 17.8.764 Administrative Amendment to Permit. An air quality permit may be amended for changes in any applicable rules and standards adopted by the Board of Environmental Review (Board) or changed conditions of operation at a source or stack that do not result in an increase of emissions as a result of those changed conditions. The owner or operator of a facility may not increase the facility's emissions beyond permit limits unless the increase meets the criteria in ARM 17.8.745 for a de minimis change not requiring a permit, or unless the owner or operator applies for and receives another permit in accordance with ARM 17.8.748, ARM 17.8.749, ARM 17.8.752, ARM 17.8.755, and ARM 17.8.756, and with all applicable requirements in ARM Title 17, Chapter 8, Subchapters 8, 9, and 10.
14. ARM 17.8.765 Transfer of Permit. This rule states that an air quality permit may be transferred from one person to another if written notice of intent to transfer, including the names of the transferor and the transferee, is sent to the Department.

F. ARM 17.8, Subchapter 8 – Prevention of Significant Deterioration of Air Quality, including, but not limited to:

1. ARM 17.8.801 Definitions. This rule is a list of applicable definitions used in this subchapter.
2. ARM 17.8.818 Review of Major Stationary Sources and Major Modifications--Source Applicability and Exemptions. The requirements contained in ARM 17.8.819 through ARM 17.8.827 shall apply to any major stationary source and any major modification, with respect to each pollutant subject to regulation under the FCAA that it would emit, except as this subchapter would otherwise allow.

This facility is not a major stationary source because this facility is not a listed source and the facility's PTE is below 250 TPY of any pollutant (excluding fugitive emissions).

G. ARM 17.8, Subchapter 12 – Operating Permit Program Applicability, including, but not limited to:

1. ARM 17.8.1201 Definitions. (23) Major Source under Section 7412 of the FCAA is defined as any source having:
  - a. PTE > 100 TPY of any pollutant;
  - b. PTE > 10 TPY of any one hazardous air pollutant (HAP), PTE > 25 TPY of a combination of all HAPs, or lesser quantity as the Department may establish by rule; or
  - c. PTE > 70 TPY of particulate matter with an aerodynamic diameter of 10 microns or less (PM<sub>10</sub>) in a serious PM<sub>10</sub> nonattainment area.

2. ARM 17.8.1204 Air Quality Operating Permit Program. (1) Title V of the FCAA amendments of 1990 requires that all sources, as defined in ARM 17.8.1204(1), obtain a Title V Operating Permit. In reviewing and issuing MAQP #3866-01 for WEI, the following conclusions were made:
  - a. The facility's PTE is less than 100 TPY for any pollutant.
  - b. The facility's PTE is less than 10 TPY for any one HAP and less than 25 TPY for all HAPs.
  - c. This source is not located in a serious PM<sub>10</sub> nonattainment area.
  - d. This facility is subject to current NSPS (40 CFR 60, Subparts A and Dc).
  - e. This facility is not subject to any current NESHAP standards.
  - f. This source is not a Title IV affected source.
  - g. This source is not a solid waste combustion unit.
  - h. This source is not an EPA designated Title V source.

Based on these facts, the Department determined that WEI will be a minor source of emissions as defined under Title V. However, if minor sources subject to NSPS are required to obtain a Title V Operating Permit, WEI will be required to obtain a Title V Operating Permit.

### III. BACT Determination

A BACT determination is required for each new or modified source. WEI shall install on the new or modified source the maximum air pollution control capability which is technically practicable and economically feasible, except that BACT shall be utilized. The current permit action is considered an administrative amendment; therefore, a BACT analysis is not required.

### IV. Emission Inventory

<b>Emissions Inventory – Facility Producing Emulsion Cutback with Up To 35% Number 2 Fuel Oil</b>							
<b>Emitting Unit</b>	<b>NO<sub>x</sub></b>	<b>CO</b>	<b>PM/PM<sub>10</sub></b>	<b>VOC</b>	<b>SO<sub>2</sub></b>	<b>Pb</b>	<b>HAPs</b>
Hot Oil Heater	4.51	3.79	0.34	0.25	0.03	2.25E-05	0.09
All Storage Tanks	---	---	---	15.52	---	---	0.20
Truck Loading Fugitives	---	---	---	19.01	---	---	0.28
Haul Road Fugitives	---	---	9.76	---	---	---	---
Equipment Fugitives	---	---	---	0.07	---	---	1.07E-03
<b>Plant-Wide Total</b>	<b>4.51</b>	<b>3.79</b>	<b>10.10</b>	<b>34.85</b>	<b>0.03</b>	<b>2.25E-05</b>	<b>5.71E-01</b>
<ul style="list-style-type: none"> <li>• NO<sub>x</sub> oxides of nitrogen</li> <li>• CO carbon monoxide</li> <li>• PM particulate matter</li> <li>• SO<sub>2</sub> sulfur dioxide</li> <li>• Pb lead</li> <li>• Emissions estimates expressed in tons of pollutant per year</li> <li>• A complete emission inventory for Permit #3866-01 is on file with the Department</li> </ul>							

<b>Emissions Inventory – Facility Producing Emulsion Cutback with Up To 20% Solvent 142</b>							
<b>Emitting Unit</b>	<b>NO<sub>x</sub></b>	<b>CO</b>	<b>PM/PM<sub>10</sub></b>	<b>VOC</b>	<b>SO<sub>2</sub></b>	<b>Pb</b>	<b>HAPs</b>
Hot Oil Heater	4.51	3.79	0.34	0.25	0.03	2.25E-05	0.09
All Storage Tanks	---	---	---	17.18	---	---	0.22
Truck Loading Fugitives	---	---	---	22.64	---	---	0.33
Haul Road Fugitives	---	---	9.19	---	---	---	---
Equipment Fugitives	---	---	---	0.07	---	---	1.07E-03
<b>Plant-Wide Total</b>	<b>4.51</b>	<b>3.79</b>	<b>9.53</b>	<b>40.14</b>	<b>0.03</b>	<b>2.25E-05</b>	<b>6.41E-01</b>
<ul style="list-style-type: none"> <li>• Emissions estimates expressed in tons of pollutant per year</li> <li>• A complete emission inventory for Permit #3866-01 is on file with the Department</li> </ul>							

#### V. Existing Air Quality

The WEI facility is located at 7315 Mossmain Lane, Billings, Montana 59106. The legal description of the site is Section 1, Township 2 South, range 24 East, in Yellowstone County, Montana. The UTM Coordinates of the site are Zone 12T, 678.680 kilometers (km) easting, 5061.674 km northing. The Billings area is currently under a SIP-call action through the Federal Clean Air Act authority Section 110(k)(5). The SIP-call area is not considered a “non-attainment” area, but does have a regulatory control plan for SO<sub>2</sub>. Existing and major new sources of SO<sub>2</sub> locating in the Billings area are regulated under the Billings SO<sub>2</sub> SIP. In the view of the Department, the amount of controlled emissions, including SO<sub>2</sub>, from this facility will not violate any ambient air quality standard.

#### VI. Ambient Air Impact Analysis

Based on the relatively low levels of pollutants emitted from the WEI facility, the Department determined that ambient air impacts from this permitting action will be minor. The Department believes the facility, operating under the limits and conditions included in this permit, will not cause or contribute to a violation of any applicable ambient air quality standard.

#### VII. Taking or Damaging Implication Analysis

As required by 2-10-105, MCA, the Department conducted the following private property taking and damaging assessment.

YES	NO	
X		1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
	X	2. Does the action result in either a permanent or indefinite physical occupation of private property?
	X	3. Does the action deny a fundamental attribute of ownership? (ex.: right to exclude others, disposal of property)
	X	4. Does the action deprive the owner of all economically viable uses of the property?
	X	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If no, go to (6)].
		5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
		5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
	X	6. Does the action have a severe impact on the value of the property? (consider economic impact, investment-backed expectations, character of government action)
	X	7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally?
	X	7a. Is the impact of government action direct, peculiar, and significant?
	X	7b. Has government action resulted in the property becoming practically inaccessible, waterlogged or flooded?
	X	7c. Has government action lowered property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?
	X	Takings or damaging implications? (Taking or damaging implications exist if YES is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to questions 5a or 5b; the shaded areas)

Based on this analysis, the Department determined there are no taking or damaging implications associated with this permit action.

#### VIII. Environmental Assessment

This permitting action will not result in an increase of emissions from the facility and is considered an administrative action; therefore, an Environmental Assessment is not required.

Analysis Prepared By: Ed Warner

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