MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

GENERAL PERMIT

For

SAND AND GRAVEL OPERATIONS

Permit No.: MTG490000

AUTHORIZATION TO DISCHARGE UNDER THE
MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Montana Water Quality Act, Title 75, Chapter 5, Montana Code Annotated (MCA), and the federal Water Pollution Control Act (the "Clean Water Act"), 33 U.S.C. 1251 et. seq., applicants issued an authorization letter for this Sand and Gravel General Permit, are permitted to discharge mine dewatering water and process wastewater to state waters in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

A copy of this General Permit and a written letter of authorization from the Department must be kept on site at all times. The General Permit is not valid without a current letter of authorization from the Department.

This permit shall become effective **November 1, 2012.**

This permit and the authorization to discharge shall expire at midnight, **October 31, 2017.**

FOR THE MONTANA DEPARTMENT
OF ENVIRONMENTAL QUALITY

Jenny Chambers

Jenny Chambers, Chief
Water Quality Bureau
Permitting and Compliance Division

Issuance Date: September 30, 2012

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I. COVERAGE UNDER THIS GENERAL PERMIT

A. Coverage Area

This General Permit applies to all areas of the State of Montana, except for Indian Reservations.

B. Sources Covered under this General Permit

This General Permit applies to facilities that are engaged in the business of mineral mining and processing as defined in 40 CFR 436 Subparts B and C and propose to discharge mine dewatering or process generated wastewater to state surface waters. Subpart B applies to facilities that mine or quarry and process crushed and broken stone and riprap which includes all types of rock and stone. The processing of calcite, in conjunction with the processing of crushed and broken limestone or dolomite is included in Subpart B. Subpart C applies to facilities that mine and process sand and gravel for construction or fill uses, except on-board processing of dredged sands and gravel subject to regulation under 33 CFR 230.

Process wastewater is generated through the process of washing aggregate. Process wastewater is any wastewater used in the slurry transport of mined material, air emissions control or processing, exclusive of mining. Process wastewater also includes any other water that becomes commingled with such wastewater in a pit, pond, lagoon, mine or other facility used for treatment of wastewater [40 CFR 436.31(e)].

C. Sources Excluded from Coverage Under this General Permit.

The following sources are excluded from coverage under this General Permit:

1. The specific source applying for authorization appears unable to comply with:
   a) Effluent limits or other terms and conditions of the permit;
   b) Water quality standards established pursuant to 75-5-301, MCA; and
   c) Discharges that the regional administrator has objected to in writing.

2. The discharge is different in degree or nature from discharges reasonably expected from sources or activities within the category described in the General Permit.

3. An MPDES permit or authorization for the same operation has previously been denied or revoked.

4. The discharge to be authorized under a general MPDES permit is also included within an application or is subject to review under the Major Facility Siting Act, 75-20-101, *et seq.*, MCA.

5. The point source will be located in an area of unique ecological or recreational significance. Such determination must be based upon considerations of Montana stream classifications adopted under 75-5-301, MCA, impacts on fishery resources, local conditions at proposed discharge sites, and designations of wilderness areas under 16 USC 1132 or of wild and scenic rivers under 16 USC 1274.

6. Discharges to receiving waters classified as A-Closed pursuant to Title 17, Chapter 30, Subchapter 6.

D. Sources covered under the April 1, 1999 General Permit – Continuing Coverage.

Sources that were permitted under the July 1, 2007 General Permit, which expired on June 30, 2012, and submitted a complete application prior to that date will be covered under the new General Permit. These sources have continuing coverage under the July 1, 2007 General Permit which remains effective until the effective date of this General Permit. Prior to the effective date of this General Permit DEQ will issue a new letter of authorization to these facilities. Sources that were covered under the July 1, 2007 General Permit and did not submit a complete permit application are not covered under permit MTG490000 and must apply following the provisions in Part I.E after the effective date of the General Permit.

E. Sources seeking coverage under the General Permit after the effective date

New dischargers seeking to obtain coverage under the General Permit must complete and submit application forms DEQ 1 and EPA 2D, Parts I through VIII and submit the applicable application fee, at least 30 days prior to the construction or operation of the treatment or disposal system regulated under the General Permit. The applicable permit application fee is specified in ARM 17.30.201.

For facilities that are eligible for coverage under the General Permit, the Department will issue a letter of authorization to the owner or operator of the facility within 30 days after receiving a completed application. If the facility does not qualify for coverage under this General Permit, the Department will notify the applicant. The applicant may apply for an individual permit or modify the operation and re-apply for coverage under the General Permit and submit a new application fee.

F. Termination of Permit Coverage

Permit coverage remains in effect until the expiration date of the General Permit or the Department receives notice from the permittee that the point source discharge has been eliminated. This notice must be signed and certified in accordance with the signatory requirements in Part V.G of the General Permit and all applicable fees have been paid. Failure to submit a notice of termination shall result in accrual of annual fees until this notice is received by the Department.

The owner or operator of a facility or site covered under this General Permit may request to be excluded from coverage under this General Permit by applying for and obtaining an individual MPDES permit pursuant to Title 17, Chapter 30, Subchapter 13. If an individual MPDES permit is issued to the owner or operator of the facility, coverage under this General Permit is terminated on the effective data of the final individual MPDES permit.

G. Transfer of Coverage

An authorization under the General Permit may be transferred to a new owner or operator in accordance with Part V. of this General Permit after the appropriate fee has been paid and the permittee has provided the required information.

II. EFFLUENT LIMITATIONS, MONITORING REQUIREMENTS & OTHER CONDITIONS

A. Specific Effluent Limitations

During the period beginning immediately and lasting through the duration of the permit, the permittee is authorized to discharge from the outfall(s) specifically described in the authorization letter at the following effluent limits:

Parameter	Units	Average Monthly Limit [1]	Maximum Daily Limit [1]
Total Suspended Solids (TSS)	mg/L	25	45
Oil and Grease	mg/L	--	10
Oil and Grease	visual	No visible sheen	
Flow	gpm	[2]	[2]
pH	S.U.	In the range of 6.0 to 9.0	

Footnote: NA means not applicable.
(1.) See Definition section at end of permit for explanation of terms
(2.) Flow will be limited to the flow specified in the authorization letter.

The Department may require the installation of flow dissipation devices or rip rap in the authorization letter if the discharge flow will exceed 75% of the total receiving stream capacity (i.e.- the discharge flow exceeds 75% of the stream bank height).

The pH requirement is not applicable if the facility is designed, constructed and maintained to contain or treat the volume of wastewater that would result from a 10-year, 24-hour precipitation event.

There shall be no discharge of sanitary wastewater.

No added chemicals are allowed in the discharge.

B. Self-Monitoring Requirements

Samples and measurements must be representative of the volume and nature of the monitored discharge. Monitoring must be conducted for the following paramaters and at the specified frequency, at a minimum. If no discharge occurs during the entire monitoring period, it shall be stated on the DMR form that no discharge or overflow occurred. Samples must be collected at the point of discharge prior to the effluent mixing with the receiving water.

Parameter	Unit	Monitoring Location	Frequency of Analyses	Sample Type [1]
Flow [2]	gpm	Effluent	Daily	Instantaneous
Duration of discharge	days/month	Effluent	1/Month	Calculated
Total Suspended Solids (TSS)	mg/L	Effluent	1/Week	Grab
pH	s.u.	Effluent	1/Week	Instantaneous
Oil and grease [3]	Presence	Effluent	Daily	Visual
Oil and grease [3]	mg/L	Effluent	1/Month	Grab

Footnotes:
1. See Definition section at end of permit for explanation of terms.
2. Flow may be estimated, determined by multiplying the pump capacity by the length of time the pump is operated, or by using another Department approved method.
3. If a visual examination of the discharge indicates the presence of hydrocarbons, by sheen, odor or other sign, the permittee is required to sample for Oil and Grease using EPA Method 1664A.

C. Other Monitoring Requirements

The Department may adjust monitoring frequency for parameters on a case-by-case basis. Changes will be specified in the authorization letter. These adjustments will not require a new public notice.

III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Reporting Requirements

All monitoring data shall be reported on the supplied discharge monitoring report (DMR) forms and sent to the Department monthly (see address below), postmarked no later than the 28th day of the month following the reported month.

Montana Department of Environmental Quality
Water Protection Bureau
ICIS Coordinator
P.O. Box 200901
Helena, Montana 59620-0901
Phone: (406) 444-3080

B. Recording of Results

For monitoring requirements of this permit the permittee shall record visual observations as required on the DMR provided by the Department.

C. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit the results of such monitoring shall be included in the monitoring report. Such increased frequency shall be indicated.

D. Record Retention

All records and information resulting from the monitoring activities required by this permit shall be retained for a minimum of three (3) years, or longer if requested by the Department.

E. Noncompliance Notification

If for any reason, the permittee does not comply with or will be unable to comply with any effluent limitation specified in this permit, the permittee shall notify as soon as possible by phone and provide the Department with the following information, in writing, within five (5) days of becoming aware of such condition:

1. A description of the discharge and cause of noncompliance; and

2. The period of noncompliance including exact dates and times, or if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the non-complying discharge.

F. Inspection and Entry

The permittee shall allow the head of the Department or the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,

4. Sample, or monitor at reasonable times for the purpose of assuring permit compliance, any substances or parameters at any location.

IV. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the 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 Department advance notice of any planned changes at the permitted facility or of an activity, which may result in permit noncompliance.

B. Penalties for Violations of Permit Conditions

The Montana Water Quality Act provides that any person who violates a permit condition of the Act is subject to civil or criminal penalties not to exceed $25,000 per day of such violation. Any person who willfully or negligently violates permit conditions of the Act is subject to a fine of not more than $50,000 per day of violation, or by imprisonment for not more than 2 years, or both.

C. 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.

D. 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.

E. Toxic Pollutants

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the 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.

F. Changes in Discharge of Toxic Substances

Notification shall be provided to the Department as soon as the permittee knows of, or has reason to believe:

1. 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":

   a. One hundred micrograms per liter (100 μg/*l*);

   b. 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;

c. 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,

d. The level established by the Department in accordance with 40 CFR 122.44(f).

2. 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":

a. Five hundred micrograms per liter (500 μg/*l*);

b. One milligram per liter (1 mg/*l*) for antimony:

c. 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,

d. The level established by the Department in accordance with 40 CFR 122.44(f).

V. GENERAL REQUIREMENTS

A. Planned Changes
The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants, which are not subject to effluent limitations in the permit.

B. Anticipated Noncompliance
The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.

C. Permit Actions
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.

D. Duty to Reapply
If the permittee wishes to continue an activity regulated by this permit after the expiration date of the permit, the permittee must apply for and obtain a new permit.

E. Duty to Provide Information
The permittee shall furnish to the Department, within a reasonable time, any information which the Department 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 Department, upon request, copies of records required to be kept by this permit.

F. 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 Department, it shall promptly submit such facts or information.

G. Signatory Requirements
All applications, reports or information submitted to the Department shall be signed and certified.

1. All permit applications shall be signed as follows:

   a. For a corporation: by a responsible corporate officer;

   b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;

c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is considered a duly authorized representative only if:

   a. The authorization is made in writing by a person described above and submitted to the Department, and,

   b. 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.)

3. Changes to authorization. If an authorization under Part IV.G.2 of this permit 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 Part IV.G.2 of this permit must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Certification. 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."

H. Penalties for Falsification of Reports

The Montana Water Quality 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 $25,000 per violation, or by imprisonment for not more than six months per violation, or by both.

I. Availability of Reports
Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Clean Water Act, permit applications, permits and effluent data shall not be considered confidential.

J. 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 Clean Water Act.

K. Property or Water Rights
The issuance of this permit does not convey any property or water rights of any sort, 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.

L. 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.

M. Transfers
Permit coverage is not transferable to any person except after notice is given to the Department and a transfer fee is paid. Notice of transfer must be completed on the form provided by the Department and must be received by the Department at least 30 days prior to the anticipated date of transfer. The form must be signed by both the existing owner/operator and the new owner/operator following the signatory requirements of Part V.G of this General Permit.

N. Fees
The permittee is required to submit payment of an annual fee as set forth in ARM 17.30.201. If the permittee fails to pay the annual fee within 90 days after the due date for payment, the Department may:

1. Impose an additional assessment consisting of 15% of the fee plus interest on the required fee computed at the rate established under 15-31-510(3), MCA; or

2. Suspend the processing of the application for a permit or authorization or, if the nonpayment involves an annual permit fee, suspend the permit, certificate, license or other authorization for which the fee is required. The Department may lift the

suspension at any time up to one year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments and interest imposed under this subsection.

O. Reopener Provisions

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:

1. Water Quality Standards: The 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.

2. TMDL or Wasteload Allocation: TMDL requirements or a wasteload allocation is developed and approved by the Department and/or EPA for incorporation in this permit.

3. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.

4. Toxic Pollutants: A toxic standard or prohibition is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit.

4. The permittee must take the necessary preventive measures to ensure that the discharge does not cause erosion in the area of operation or of the bank and bed of the receiving stream.

5. There shall be no discharge of any wastewater except wastewater resulting from dewatering of groundwater and/or surface water from construction sites.

VI. DEFINITIONS

1. "**Department**" means the Montana Department of Environmental Quality (MDEQ).

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

3. An "**instantaneous**" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.

4. The term "**mine**" means an area of land, surface or underground, actively mined for the production of crushed and broken stone from natural deposits or for the production of sand and gravel from natural deposits.

5. The term "**mine dewatering**" means any water that is impounded or that collects in the mine and is pumped, drained or otherwise removed from the mine through the efforts of the mine operator. However, if a mine is also used for treatment of process generated wastewater, discharges of commingled water from the facilities shall be deemed discharged of process generated waste water.

6. A "**mixing zone**" means a limited area of a surface water body or aquifer where initial dilution of a discharge takes place and where water quality changes may occur. Also recognized as an area where certain water quality standards may be exceeded.

7. "**Non-degradation**" means the prevention of a significant change in water quality that lowers the quality of high-quality water for one or more parameters. Also, the prohibition of any increase in discharge that exceeds the limits established under or determined from a permit or approval issued by the Department prior to April 29, 1993.

8. The term "**process generated waste water**" means any wastewater used in the slurry transport of mined material, air emissions control, or processing exclusive of mining. The term shall also include any other water which becomes commingled with such waste water in a pit, pond, lagoon, mine, or other facility used for treatment of such wastewater.

9. The term "**10-year 24-hour precipitation event**" means the maximum 24-hour precipitation event with a probable reoccurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

10. The term "**TMDL**" means the total maximum daily load limitation of a parameter, representing the estimated assimilative capacity for a water body before other designated uses are adversely affected. Mathematically, it is the sum of wasteload allocations for point sources, load allocations for non-point and natural background sources, and a margin of safety.

11. "**Turbidity**" means a measure of the clarity of a particular water sample. It expresses the tendency of the sample to scatter or absorb light owing to the presence of sediment, suspended particulate matter, such as silt, or other finely divided organic or inorganic matter. Turbidity is measured in nephelometric turbidity units (NTU's).

12. The **"receiving stream"** means the river, stream, or creek, which receives the wastewater discharge from the construction activity.

13. A **"visual observation"** means an examination of the discharge for the presence of hydrocarbons, sheen, odor or other sign.