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**CASE NO. BER 2015-04a AQ**

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**ORDER OF DISMISSAL**

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On September 25, 2015, the appellant informally requested withdrawal of its request for Contested Case with the Board. Appellant has failed to represent itself past its initial appearance other than to request withdrawal; on October 15, 2015, the Department moved to dismiss the action, and has shown good cause for doing so. Appellant has not responded. Accordingly, this matter is dismissed.

DATED this \_\_\_\_\_ day of March, 2016.

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JOAN MILES  
Chair, Board of Environmental Review

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**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and accurate copy of the foregoing Order  
of Dismissal to be mailed to:

Ms. Hillary Houle  
Secretary, Board of Environmental Review  
Department of Environmental Quality  
1520 East Sixth Avenue  
P.O. Box 200901  
Helena, MT 59620-0901  
**(original)**

Mr. Norm Mullen  
Legal Counsel  
Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620-0901

Mr. David Klemp, Bureau Chief  
Air Quality Bureau  
Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620-0901

Patrick Pozzi  
Patrick@johnsonbrothers.net

DATED:\_\_\_\_\_

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**CASE NO. BER 2015-04b AQ**

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**ORDER OF DISMISSAL**

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Ms. Hillary Houle  
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1520 East Sixth Avenue  
P.O. Box 200901  
Helena, MT 59620-0901  
**(original)**

Mr. Norm Mullen  
Legal Counsel  
Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620-0901

Mr. David Klemp, Bureau Chief  
Air Quality Bureau  
Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620-0901

Patrick Pozzi  
Patrick@johnsonbrothers.net

DATED:\_\_\_\_\_

**BEFORE THE MONTANA BOARD OF ENVIRONMENTAL REVIEW**

---

IN THE MATTER OF:  
THE REVOCATION OF MONTANA AIR  
QUALITY PERMIT NO. MAQP# 4057-00,  
ISSUED TO MONTANA RENEWABLE  
RESOURCES (LP), EUREKA, LINCOLN  
COUNTY.

Case No. BER 2015-04c AQ

---

**ORDER OF DISMISSAL**

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The Board of Environmental Review (Board), having reviewed the parties' Stipulation to Dismiss, hereby FINDS that the parties have stipulated to dismiss this contested case under Mont.R.Civ.P. 41(a)(1)(ii).

Based on the above Findings of Fact, the Board CONCLUDES that it is proper under Mont.R.Civ.P. 41(a)(1)(ii) to dismiss this case with prejudice.

The Board therefore ORDERS that this contested case is dismissed with prejudice.

\_\_\_\_\_  
Dated

\_\_\_\_\_  
JOAN MILES  
Chair, Board of Environmental Review

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Order of Dismissal was served on the parties at the addresses indicated below on \_\_\_\_\_, 2016, via the manner indicated below:

US Mail:

Joshua Johnson  
Johnson Lumber Company  
PO Box 1912  
Eureka MT 59917

Interagency Mail:

Norman J. Mullen  
Special Assistant Attorney General  
Department of Environmental Quality  
Legal Unit, Metcalf Building  
P.O. Box 200901  
Helena MT 59620-0901

\_\_\_\_\_

**BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA**

**IN THE MATTER OF:  
THE DENIAL FOR THE SILVERADO  
HEIGHTS SUBDIVISION LOTS 1 AND  
10 REWRITE, EQ# 16-1383, RAVALLI  
COUNTY, MONTANA**

**CASE NO. BER 2016-01 PWS**

**ORDER OF DISMISSAL  
WITH PREJUDICE**

The parties have filed a Stipulation for Dismissal pursuant to Rule 41(a), M.R.Civ.P., and have requested the Court to issue an order dismissing this matter with prejudice. There being good cause,

IT IS HEREBY ORDERED that the above entitled action is DISMISSED WITH PREJUDICE.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

---

Joan Miles, Chair  
Board of Environmental Review  
1520 East 6th Avenue  
PO Box 200901  
Helena, MT 59601

**BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA**

**IN THE MATTER OF:  
THE DENIAL FOR THE WIEDIGER  
FAMILY TRANSFER EQ# 16-1116,  
RAVALLI COUNTY, MONTANA**

**CASE NO. BER 2016-02 PWS**

**ORDER OF DISMISSAL  
WITH PREJUDICE**

The parties have filed a Stipulation for Dismissal pursuant to Rule 41(a), M.R.Civ.P., and have requested the Court to issue an order dismissing this matter with prejudice. There being good cause,

IT IS HEREBY ORDERED that the above entitled action is DISMISSED WITH PREJUDICE.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

---

Joan Miles, Chair  
Board of Environmental Review  
1520 East 6th Avenue  
PO Box 200901  
Helena, MT 59601



Kurt R. Moser  
Department of Environmental Quality  
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*Attorney for the Department*

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Telephone: (406) 443-2211  
Fax: (406) 449-8443  
Email: jpapez@doneylaw.com  
fcrowley@doneylaw.com

*Attorneys for Appellant Yellowstone Energy Limited Partnership*

Filed with the  
MONTANA BOARD OF  
ENVIRONMENTAL REVIEW  
This 23 day of March, 2016  
at 3:00 o'clock P.m.  
By: Hillary Houle

**BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA**

IN THE MATTER OF:

THE NOTICE OF APPEAL AND REQUEST  
FOR HEARING BY YELLOWSTONE  
ENERGY LIMITED PARTNERSHIP  
REGARDING ISSUANCE OF MPDES  
PERMIT NO. MT0030180 FOR BILLINGS,  
MONTANA, FACILITY

Cause No.: BER 2014-01 WQ

**STIPULATION FOR ENTRY OF FINAL  
AGENCY DECISION**

COME NOW Appellant Yellowstone Energy Limited Partnership ("YELP") and the Montana Department of Environmental Quality ("DEQ"), collectively ("Parties"), and hereby stipulate and agree as follows:

WHEREAS, on March 5, 2014, DEQ issued a renewal of an Authorization to Discharge under the Montana Pollution Discharge Elimination System ("MPDES") Permit No. MT0030180 for YELP's facility;

WHEREAS, on April 3, 2014, YELP timely appealed certain provisions of Permit No. MT0030180 before the Board of Environmental Review ("Board"). *See* Notice of Appeal and Request for Hearing (April 3, 2014);

WHEREAS, on January 12, 2015, the Parties filed a Stipulation and Agreement for Partial Withdrawal of Appeal, Continued Stay, and Compliance Efforts, whereby the contested issues remaining in the appeal were identified as the MPDES Permit's copper effluent limits and copper monitoring requirements as well as other appeal issues specifically related to the copper effluent limits and copper monitoring requirements;

WHEREAS, on March 5, 2015, the Hearing Examiner Ordered the Parties to comply with the terms of the Stipulation and Agreement for Partial Withdrawal of Appeal, Continued Stay, and Compliance Efforts, further Ordering that, except as reserved in the Stipulation, all terms and conditions of MPDES Permit No. MT0030180, as issued March 5, 2014, were fully effective and enforceable;

WHEREAS, YELP has undertaken efforts and made significant progress in addressing copper concentrations in its effluent;

WHEREAS, the Parties agree that all matters in this appeal will be resolved with the inclusion of a compliance schedule for copper in the appealed MPDES Permit No. MT0030180, should the Board adopt a final agency decision as specified herein;

WHEREAS, the MPDES permit includes the implementation of a new copper Water Quality Based Effluent Limitation on the discharges from YELP's facility. And, accordingly, DEQ is proposing to incorporate a compliance schedule into the MPDES Permit that provides YELP with a timeframe necessary to design and implement a treatment system for the facility that is capable of meeting the copper effluent limits as specified in the MPDES Permit, attached hereto as *Exhibit A* and incorporated herein by this reference;

WHEREAS, the compliance schedule included in the attached MPDES Permit provides YELP with a timeline for coming into compliance with this new copper effluent limitation and includes a requirement for the permittee to submit to DEQ annual reports for the years 2016, 2017, 2018, and 2019, outlining any actions taken by YELP towards meeting the final copper effluent limits and will be submitted to DEQ no later than January 28<sup>th</sup> of the years 2017, 2018, 2019, and 2020;

WHEREAS, DEQ considers the inclusion of a compliance schedule in the Permit will lead to compliance with the necessary copper effluent limitations and that although YELP has made significant progress in treating the copper concentration in its effluent, YELP cannot immediately comply with the copper limits imposed in the Permit, imposed for the first time in the Permit renewal issued March 5, 2014;

WHEREAS, DEQ further finds that it is reasonable and appropriate to allow YELP to meet the copper effluent limits through the imposition of a compliance schedule under ARM

17.30.1350, such that final enforceable effluent limits for copper will become effective on November 1, 2018, and further considering that YELP agrees to be subject to all conditions as specified in the MPDES Permit, attached hereto as *Exhibit A*;

WHEREAS, the Parties request the Board adopt, as the final agency decision, the attached MPDES Permit, pursuant to its authority to hear contested case appeals of MPDES Permits under Mont. Code Ann. § 75-5-403 (2) and ARM 17.30.1370 (4);

NOW THEREFORE IT IS HEREBY STIPULATED AND AGREED, by and between YELP and DEQ and that the above-captioned matter has been fully and finally compromised and settled upon its merits by agreement of the parties and the parties herein respectfully request the Board and stipulate to the Board's entry of a final agency decision as follows:

1. Pursuant to Mont. Code Ann. § 75-5-403, the Board has authority to hear contested case appeals of DEQ's MPDES permitting decisions, such that the Board may affirm, modify, or reverse a permitting action of DEQ.

2. DEQ is a department of the executive branch of state government, duly created and existing under the authority of Mont. Code Ann. § 2-15-3501. The Department has statutory authority to administer Montana's water quality statutes, including the review and issuance of MPDES Permits under Mont. Code Ann. § 75-5-402 and ARM 17.30.1301.

3. YELP is a limited partnership duly registered to do business in Montana, located in Yellowstone County, Montana, and is the owner and operator of the MPDES permitted facility which has been issued MPDES Permit No. MT0030180.

4. On March 5, 2014, DEQ issued a renewal of MPDES Permit No. MT0030180, authorizing a discharge from YELP's facility.

5. On April 3, 2014, YELP timely appealed certain provisions of Permit No. MT0030180 before the Board. See Notice of Appeal and Request for Hearing (April 3, 2014).

6. On January 12, 2015, the Parties filed a Stipulation and Agreement for Partial Withdrawal of Appeal, Continued Stay, and Compliance Efforts (January 9, 2015), whereby the only contested issues remaining in the appeal were identified as consisting of the copper effluent limits and copper monitoring requirements as well as other appeal issues specifically related to the copper effluent limits and copper monitoring requirements.

7. On March 5, 2015, the Hearing Examiner Ordered the Parties to comply with the terms of the Stipulation and Agreement for Partial Withdrawal of Appeal, Continued Stay, and Compliance Efforts, further Ordering that, except as reserved in the Stipulation, all terms and conditions of MPDES Permit No. MT0030180, as issued March 5, 2014, were fully effective and enforceable. Order at 2.

8. YELP has undertaken efforts and made significant progress in addressing copper concentrations in its effluent as most recently represented in YELP's Third Status Report, filed February 1, 2016.

9. All matters in this appeal will be resolved with the inclusion of a compliance schedule for copper in the appealed MPDES Permit No. MT0030180, should the Board adopt a final agency decision as specified herein.

10. The appealed MPDES permit includes the implementation of a new copper Water Quality Based Effluent Limitation on the discharges from YELP's facility. The modified MPDES Permit, attached hereto as *Exhibit A*, now provides YELP with a timeframe necessary to

design and implement a treatment system for the facility that is capable of meeting the copper effluent limits.

11. The compliance schedule included in the modified and attached MPDES Permit provides YELP with a timeline for coming into compliance with the new copper effluent limits and includes a requirement for the permittee to submit to DEQ annual reports for the years 2016, 2017, 2018, and 2019, outlining any actions taken by YELP towards meeting the final copper effluent limits and will be submitted to DEQ no later than January 28<sup>th</sup> of the years 2017, 2018, 2019, and 2020;

12. The inclusion of a compliance schedule in the Permit will lead to compliance with the necessary copper effluent limitations and that although YELP has made significant progress in treating copper concentration's in its effluent, YELP cannot immediately comply with the copper limits imposed in the Permit, imposed for the first time in the Permit renewal issued March 5, 2014.

13. It is reasonable and appropriate to allow YELP to meet the copper effluent limits through the imposition of a compliance schedule under ARM 17.30.1350, such that final enforceable effluent limits for copper will become effective on November 1, 2018, and further considering that YELP agrees to be subject to the conditions specified in the MPDES Permit, attached hereto as *Exhibit A*.

14. Pursuant to its authority to hear contested case appeals of MPDES Permits under Mont. Code Ann. § 75-5-403 (2) and ARM 17.30.1370 (4), the Board HEREBY ADOPTS AS THE FINAL AGENCY DECISION, the MPDES Permit attached hereto as *Exhibit A*.

15. YELP shall comply with all applicable state, federal, and local statutes, rules,


ordinances, orders, and permit conditions.

16. The parties shall each pay their own attorney fees and costs.

17. Each of the signatories to this Stipulation represents that he or she is authorized to enter into this Stipulation and to bind the parties represented by him or her to the terms of this Stipulation.

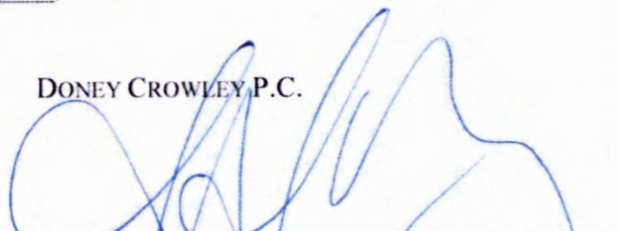
18. That the Board's Decision shall represent the FINAL AGENCY DECISION for purposes of the Montana Administrative Procedure Act, Section 2-4-623, MCA.

DATED this 23rd day of March, 2016.

  
Kurt R. Moser  
Department of Environmental Quality  
*Attorney for the Department*

DATED this 23rd day of March, 2016.

DONEY CROWLEY P.C.

  
Jacqueline R. Papez  
Frank C. Crowley  
*Attorneys for Appellant Yellowstone Energy Limited Partnership*

## CERTIFICATE OF SERVICE

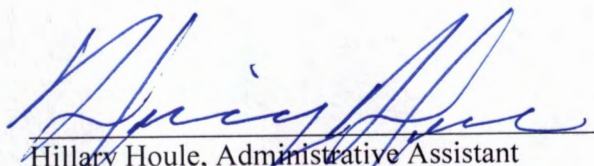
I hereby certify that a true and correct copy of the foregoing document was served via U.S. mail, first-class postage prepaid or personally delivered, on this 23<sup>rd</sup> day of March, 2016, upon the following:

Ben Reed, Esq.  
Agency Legal Services  
Office of the Attorney General  
1712 Ninth Avenue  
P.O. Box 201440  
Helena, MT 59620-1440

Jon Kenning, Chief  
Water Protection Bureau  
Montana Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620-0901

Hillary Houle, Secretary  
Board of Environmental Review of the State of Montana  
Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620-0901

Jacqueline R. Papez  
Frank C. Crowley  
DONEY CROWLEY P.C.  
Diamond Block, Suite 200  
44 West 6th Avenue  
P.O. Box 1185  
Helena, MT 59624-1185



Hillary Houle, Administrative Assistant  
MT-Department of Environmental Quality



**BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA**

IN THE MATTER OF:

THE NOTICE OF APPEAL AND REQUEST  
FOR HEARING BY YELLOWSTONE  
ENERGY LIMITED PARTNERSHIP  
REGARDING ISSUANCE OF MPDES  
PERMIT NO. MT0030180 FOR BILLINGS,  
MONTANA, FACILITY

Cause No.: BER 2014-01 WQ

**(PROPOSED) BOARD ORDER  
FINAL AGENCY DECISION**

This matter is before the Board of Environmental Review ("Board") upon Yellowstone Energy Limited Partnership's ("YELP") Notice of Appeal and Request for Hearing, dated April 3, 2014, and the Board has received a Stipulation for Entry of Final Agency Decision ("Stipulation") by and between YELP and the Department of Environmental Quality ("DEQ"), dated March 23, 2016. The Board has reviewed and considered the Stipulation and has been advised that the above captioned matter has been fully and finally compromised and settled upon

its merits by agreement of the parties and as ORDERED further herein. The Court finds good cause for entry of the Final Agency Decision as requested by the parties in the Stipulation.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. Pursuant to Mont. Code Ann. § 75-5-403, the Board has authority to hear contested case appeals of DEQ's Montana Pollutant Discharge Elimination System ("MPDES") permitting decisions, such that the Board may affirm, modify, or reverse a permitting action of DEQ.

2. DEQ is a department of the executive branch of state government, duly created and existing under the authority of Mont. Code Ann. § 2-15-3501. The Department has statutory authority to administer Montana's water quality statutes, including the review and issuance of MPDES Permits under Mont. Code Ann. § 75-5-402 and ARM 17.30.1301.

3. YELP is a limited liability partnership duly registered to do business in Montana, located in Yellowstone County, Montana, and is the owner and operator of the MPDES permitted facility which has been issued MPDES Permit No. MT0030180.

4. On March 5, 2014, DEQ issued a renewal of MPDES Permit No. MT0030180, authorizing a discharge from YELP's facility.

5. On April 3, 2014, YELP timely appealed certain provisions of Permit No. MT0030180 before the Board. See Notice of Appeal and Request for Hearing (April 3, 2014).

6. On January 12, 2015, the Parties filed a Stipulation and Agreement for Partial Withdrawal of Appeal, Continued Stay, and Compliance Efforts (January 9, 2015), whereby the only contested issues remaining in the appeal were identified as consisting of the copper effluent

limits and copper monitoring requirements as well as other appeal issues specifically related to the copper effluent limits and copper monitoring requirements.

7. On March 5, 2015, the Hearing Examiner Ordered the Parties to comply with the terms of the Stipulation and Agreement for Partial Withdrawal of Appeal, Continued Stay, and Compliance Efforts, further Ordering that, except as reserved in the Stipulation, all terms and conditions of MPDES Permit No. MT0030180, as issued March 5, 2014, were fully effective and enforceable. Order at 2.

8. YELP has undertaken efforts and made significant progress in addressing copper concentrations in its effluent as most recently represented in YELP's Third Status Report, filed February 1, 2016.

9. All matters in this appeal will be resolved with the inclusion of a compliance schedule for copper in the appealed MPDES Permit No. MT0030180, as specified herein.

10. The appealed MPDES permit includes the implementation of a new copper Water Quality Based Effluent Limitation on the discharges from YELP's facility. The modified MPDES Permit, attached hereto as *Exhibit A* and incorporated herein by this reference, now provides YELP with a timeframe necessary to design and implement a treatment system for the facility that is capable of meeting the copper effluent limits.

11. The compliance schedule included in the modified and attached MPDES Permit provides YELP with a timeline for coming into compliance with the new copper effluent limits and includes a requirement for the permittee to submit to DEQ annual reports for the years, 2016, 2017, 2018, and 2019, outlining any actions taken by YELP towards meeting the final copper

effluent limits and will be submitted to DEQ no later than January 28<sup>th</sup> of the years 2017, 2018, 2019, and 2020

12. The inclusion of a compliance schedule in the Permit will lead to compliance with the necessary copper effluent limitations and although YELP has made significant progress in treating copper concentrations in its effluent, YELP cannot immediately comply with the copper limits imposed in the Permit, imposed for the first time in the Permit renewal issued March 5, 2014.

13. It is reasonable and appropriate to allow YELP to meet the copper effluent limits through the imposition of a compliance schedule under ARM 17.30.1350, such that final enforceable effluent limits for copper will become effective on October 31, 2018, and further considering that YELP agrees to be subject to the conditions specified in the modified MPDES Permit, attached hereto as *Exhibit A*.

14. Pursuant to its authority to hear contested case appeals of MPDES Permits under Mont. Code Ann. § 75-5-403 (2) and ARM 17.30.1370 (4), the Board HEREBY ADOPTS AS THE FINAL AGENCY DECISION, the MPDES Permit attached hereto as *Exhibit A*.

15. YELP shall comply with all applicable state, federal, and local statutes, rules, ordinances, orders, and permit conditions.

16. The parties shall each pay their own attorney fees and costs.

17. Each of the signatories to this Stipulation represents that he or she is authorized to enter into this Stipulation and to bind the parties represented by him or her to the terms of this Stipulation.

18. That the Board's Decision shall represent the FINAL AGENCY DECISION for purposes of the Montana Administrative Procedure Act, Section 2-4-623, MCA.

DATED this \_\_\_\_ day of April, 2016.

By:

\_\_\_\_\_  
Joan Miles  
Chair  
Board of Environmental Review

cc: Ben Reed (Hearing Examiner)  
Kurt R. Moser  
Frank Crowley/Jacqueline R. Papez  
Jon Kenning (DEQ)  
Hillary Houle (BER)

## **MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **AUTHORIZATION TO DISCHARGE UNDER THE MONTANA POLLUTION 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.*,

#### **Yellowstone Energy Limited Partnership**

is authorized to discharge from the **Yellowstone Energy Limited Partnership Facility**; located at 2215 Frontage Road in Billings, Yellowstone County; to receiving waters, the **ExxonMobil Storm Water Ditch**,

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein. Authorization for discharge is limited to those outfalls specifically listed in the permit. The numeric effluent limits, water quality standards, and special conditions specified herein support the protection of the affected receiving water.

This permit shall become effective: **May 1, 2014.**

This permit and the authorization to discharge shall expire at midnight, **April 30, 2019.**

Modified Pursuant to Board Order on: \_\_\_\_\_

## TABLE OF CONTENTS

Cover Sheet--Issuance and Expiration Dates

|             |  |           |
|-------------|--|-----------|
| <b>I.</b>   | <b>EFFLUENT LIMITS, MONITORING REQUIREMENTS &amp; OTHER CONDITIONS .....</b> | <b>4</b>  |
| A.          | DESCRIPTION OF DISCHARGE POINT AND MIXING ZONE.....                          | 4         |
| B.          | INTERIM EFFLUENT LIMITS .....  | 4         |
| C.          | FINAL EFFLUENT LIMITS .....  | 5         |
| D.          | BACKGROUND MONITORING AND REPORTING REQUIREMENTS.....                        | 6         |
| E.          | EFFLUENT MONITORING AND REPORTING REQUIREMENTS .....                         | 6         |
| F.          | WHOLE EFFLUENT TOXICITY (WET) .....  | 7         |
| G.          | SPECIAL CONDITIONS .....   | 9         |
| H.          | COMPLIANCE SCHEDULE .....  | 10        |
| <b>II.</b>  | <b>MONITORING, RECORDING AND REPORTING REQUIREMENTS.....</b>                 | <b>10</b> |
| A.          | REPRESENTATIVE SAMPLING .....  | 10        |
| B.          | MONITORING PROCEDURES .....  | 10        |
| C.          | PENALTIES FOR TAMPERING.....   | 11        |
| D.          | REPORTING OF MONITORING RESULTS.....   | 11        |
| E.          | COMPLIANCE SCHEDULES .....   | 11        |
| F.          | ADDITIONAL MONITORING BY THE PERMITTEE .....                                 | 11        |
| G.          | RECORDS CONTENTS .....   | 11        |
| H.          | RETENTION OF RECORDS .....   | 12        |
| I.          | TWENTY-FOUR HOUR NOTICE OF NONCOMPLIANCE REPORTING .....                     | 12        |
| J.          | OTHER NONCOMPLIANCE REPORTING.....   | 13        |
| K.          | INSPECTION AND ENTRY .....   | 13        |
| <b>III.</b> | <b>COMPLIANCE RESPONSIBILITIES .....</b>                                     | <b>13</b> |
| A.          | DUTY TO COMPLY .....   | 13        |
| B.          | PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS .....                          | 14        |
| C.          | NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE .....                          | 14        |
| D.          | DUTY TO MITIGATE .....   | 14        |
| E.          | PROPER OPERATION AND MAINTENANCE .....                                       | 14        |
| F.          | REMOVED SUBSTANCES .....   | 14        |
| G.          | BYPASS OF TREATMENT FACILITIES.....  | 14        |
| <b>IV.</b>  | <b>GENERAL REQUIREMENTS.....</b>   | <b>15</b> |
| A.          | PLANNED CHANGES.....   | 15        |
| B.          | ANTICIPATED NONCOMPLIANCE .....  | 16        |
| C.          | PERMIT ACTIONS .....   | 16        |
| D.          | DUTY TO REAPPLY .....  | 16        |
| E.          | DUTY TO PROVIDE INFORMATION .....  | 16        |
| F.          | OTHER INFORMATION.....   | 16        |
| G.          | SIGNATORY REQUIREMENTS .....   | 16        |
| H.          | PENALTIES FOR FALSIFICATION OF REPORTS .....                                 | 17        |
| I.          | AVAILABILITY OF REPORTS.....   | 18        |
| J.          | OIL AND HAZARDOUS SUBSTANCE LIABILITY .....                                  | 18        |
| K.          | PROPERTY OR WATER RIGHTS .....   | 18        |
| L.          | SEVERABILITY .....   | 18        |
| M.          | TRANSFERS.....   | 18        |
| N.          | FEES.....  | 18        |
| O.          | REOPENER PROVISIONS .....  | 19        |

|           |                          |           |
|-----------|--------------------------|-----------|
| <b>V.</b> | <b>DEFINITIONS .....</b> | <b>19</b> |
|-----------|--------------------------|-----------|



## I. EFFLUENT LIMITS, MONITORING REQUIREMENTS & OTHER CONDITIONS

### A. Description of Discharge Point and Mixing Zone

The authorization to discharge provided under this permit is limited to the outfall specially designated below as discharge location. Discharges at any location not authorized under an MPDES permit is a violation of the Montana Water Quality Act and may subject the person(s) responsible for such discharge to penalties under the Act. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge within a reasonable time from first learning of an unauthorized discharge could subject such person to criminal penalties as provided under Section 75-5-632 of the Montana Water Quality Act.

Outfall  
001

#### Description

**Location:** Outfall 001 is located at 45°48'48" North Latitude and -108°26'25" West Longitude, Yellowstone County, at the end of the pipe discharging into the ExxonMobil Storm Water Ditch.

**Mixing Zone:** No mixing zone is granted.

**Treatment Works:** Settling and pH adjustment.

### B. Interim Effluent Limits

Beginning on May 1, 2014, and lasting through midnight on October 31, 2018, the quality of the effluent discharged by the facility at Outfall 001 must, as a minimum, meet the limits set forth below in Table 1.

**Table 1. Interim Numeric Effluent Limitations—Outfall 001**

| Parameter               | Units | Maximum Daily Limit <sup>(1)</sup> | Average Monthly Limit <sup>(1)</sup> |
|-------------------------|-------|------------------------------------|--------------------------------------|
| Total Suspended Solids  | mg/L  | 100                                | 30                                   |
| Oil & Grease            | mg/L  | 10                                 | -                                    |
| Total Residual Chlorine | mg/L  | 0.011 <sup>(2)</sup>               | 0.0085 <sup>(2)</sup>                |
| Zinc, Total Recoverable | µg/L  | 178                                | 116                                  |

**Footnotes:**

(1) See definitions in Part V of the permit.

(2) Values reported that are equal to or less than the Department's Required Reporting Value (RRV) of 0.1 mg/L are considered to be in compliance with this limit.

The pH of all discharges shall be within the range of 6.0-9.0 s.u.

There shall be no discharge of polychlorinated biphenyl compounds (PCBs) such as those commonly used for transformer fluid.

There shall be no discharge which causes visible oil sheen in the receiving water.

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

There shall be no acute toxicity in the effluent from Outfall 001. Acute toxicity occurs when, during an acute toxicity test, 50% mortality is observed for any tested species at any effluent concentration (i.e.,  $LC_{50} \leq 100\%$  effluent). Acute toxicity tests to determine the  $LC_{50}$  of the effluent from Outfall 001 shall be conducted in accordance with the requirements of Part I.F. of this permit.

C. Final Effluent Limits

Beginning on **November 1, 2018**, and lasting through the term of the permit, the quality of the effluent discharged by the facility at Outfall 001 must, as a minimum, meet the limits set forth below in Table 2.

| <b>Table 2. Final Numeric Effluent Limitations—Outfall 001</b>   |              |  |  |
|--|--------------|--|--|
| <b>Parameter</b>   | <b>Units</b> | <b>Maximum Daily Limit<sup>(1)</sup></b> | <b>Average Monthly Limit<sup>(1)</sup></b> |
| Total Suspended Solids   | mg/L         | 100                                      | 30   |
| Oil & Grease   | mg/L         | 10                                       | -  |
| Total Residual Chlorine  | mg/L         | 0.011 <sup>(2)</sup>                     | 0.0085 <sup>(2)</sup>                      |
| Copper, Total Recoverable  | µg/L         | 13.92                                    | 9.53                                       |
| Zinc, Total Recoverable  | µg/L         | 178                                      | 116  |
| Footnotes:<br>(1) See definitions in Part V of the permit.<br>(2) Values reported that are equal to or less than the Department's Required Reporting Value (RRV) of 0.1 mg/L are considered to be in compliance with this limit. |              |  |  |

The pH of all discharges shall be within the range of 6.0-9.0 s.u.

There shall be no discharge of polychlorinated biphenyl compounds (PCBs) such as those commonly used for transformer fluid.

There shall be no discharge which causes visible oil sheen in the receiving water.

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

There shall be no acute toxicity in the effluent from Outfall 001. Acute toxicity occurs when, during an acute toxicity test, 50% mortality is observed for any tested species at any effluent concentration (i.e.,  $LC_{50} \leq 100\%$  effluent). Acute toxicity tests to determine the  $LC_{50}$  of the effluent from Outfall 001 shall be conducted in accordance with the requirements of Part I.F. of this permit.

**D. Background Monitoring and Reporting Requirements**

The background water quality must be monitored at the frequency and with the type of measurement indicated. Samples representative of the background water quality must be individually collected upstream of the discharge. The permittee must report the monitoring data to the Department at the frequency respectively listed in Table 3 for each parameter. Each sample must include, but is not limited to, the respective parameters listed in Table 3.

**Table 3: Background Monitoring and Reporting Requirements—ExxonMobil Storm Water Ditch**

| Parameter                        | Monitoring Location   | Units | Sample Type <sup>(1)(2)</sup> | Minimum Sampling Frequency | Reporting Requirements <sup>(1)(3)</sup> | Reporting Frequency | RRV <sup>(4)</sup> |
|----------------------------------|-----------------------|-------|-------------------------------|----------------------------|--|---------------------|--------------------|
| Flow Rate                        | Upstream of Discharge | gpd   | Instantaneous                 | 1/Quarter                  | Quarterly Average                        | Quarterly           | -                  |
| pH                               | Upstream of Discharge | s.u.  | Instantaneous                 | 1/Quarter                  | Quarterly Average                        | Quarterly           | -                  |
| Hardness (as CaCO <sub>3</sub> ) | Upstream of Discharge | mg/L  | Grab                          | 1/Quarter                  | Quarterly Average                        | Quarterly           | -                  |
| Phosphorus, Total (as P)         | Upstream of Discharge | mg/L  | Grab                          | 1/Quarter                  | Quarterly Average                        | Quarterly           | 0.001              |
| Copper, Total Recoverable        | Upstream of Discharge | µg/L  | Grab                          | 1/Quarter                  | Quarterly Average                        | Quarterly           | 2                  |
| Zinc, Total Recoverable          | Upstream of Discharge | µg/L  | Grab                          | 1/Quarter                  | Quarterly Average                        | Quarterly           | 8                  |

**Footnotes:**

(1) See definitions in Part V of the permit.

(2) Grab sample will represent concentration for a 24 hour period.

(3) Daily Maximum: report the highest measured daily value for the reporting period on Discharge Monitoring Report (DMR) forms.

(4) When listed, the RRV is the detection level that must be achieved in reporting effluent monitoring or compliance data to the Department. The RRV is the Department's best determination of a level of analysis that is achievable by the majority of the commercial, university, or governmental laboratories using EPA approved methods or methods approved by the Department. Practical Quantification Limits (PQLs) are not acceptable substitutions for RRV.

Analytical methods must be 40 CFR 136 approved methods unless otherwise specified or approved by the Department. Analysis must meet the RRV listed in Circular DEQ-7. PQLs are not acceptable substitutions for the RRVs.

**E. Effluent Monitoring and Reporting Requirements**

The effluent discharged from the treatment system must be monitored at the frequency and with the type of measurement indicated. Samples or measurements must be representative of the volume and nature of the monitored discharge. Samples representative of the effluent quality at the outfall must be individually collected from the last point of control prior to discharge. The permittee must report the monitoring data to the Department at the frequency respectively listed below in Table 3 for each parameter. Discharge Monitoring Report Forms (DMRs) will be required regardless of the operational status of the facility. If no discharge occurs during the entire monitoring period, it shall be stated on the DMR that no discharge or overflow occurred. Each sample must include, but is not limited to, the respective parameters listed below in Table 4.



**Table 4: Effluent Monitoring and Reporting Requirements – Outfall 001**

| Parameter                              | Monitoring Location          | Units      | Sample Type <sup>(1)(2)</sup> | Minimum Sampling Frequency | Reporting Requirements <sup>(1)(3)</sup> | Reporting Frequency | RRV <sup>(4)</sup> |
|--|------------------------------|------------|-------------------------------|----------------------------|--|---------------------|--------------------|
| Effluent Flow Rate                     | Discharge from Settling Tank | mgd        | Instantaneous                 | Continuous                 | Daily Maximum and Monthly Average        | Monthly             | -                  |
| pH, maximum                            | Wastewater Sample Tap        | s.u.       | Instantaneous                 | 1/Week                     | Daily Maximum and Monthly Average        | Monthly             | -                  |
| pH, minimum                            | Wastewater Sample Tap        | s.u.       | Instantaneous                 | 1/Week                     | Daily Minimum and Monthly Average        | Monthly             | -                  |
| Total Suspended Solids                 | Wastewater Sample Tap        | mg/L       | Composite                     | 1/Week                     | Daily Maximum and Monthly Average        | Monthly             | -                  |
| Total Residual Chlorine <sup>(5)</sup> | Wastewater Sample Tap        | mg/L       | Grab                          | 1/Week                     | Daily Maximum and Monthly Average        | Monthly             | 0.1                |
| Oil & Grease                           | Wastewater Sample Tap        | mg/L       | Grab                          | 1/Month                    | Daily Maximum and Monthly Average        | Monthly             | -                  |
| Total Dissolved Solids                 | Wastewater Sample Tap        | mg/L       | Grab                          | 1/Month                    | Monthly Average                          | Monthly             | -                  |
| Copper, Total Recoverable              | Wastewater Sample Tap        | µg/L       | Grab                          | 1/Week                     | Daily Maximum and Monthly Average        | Monthly             | 2                  |
| Zinc, Total Recoverable                | Wastewater Sample Tap        | µg/L       | Grab                          | 1/Week                     | Daily Maximum and Monthly Average        | Monthly             | 8                  |
| Phosphorus, Total (as P)               | Wastewater Sample Tap        | mg/L       | Grab                          | 1/Quarter                  | Quarterly Average                        | Quarterly           | 0.001              |
| Whole Effluent Toxicity, Acute         | Wastewater Sample Tap        | % Effluent | Grab                          | 1/Quarter                  | Pass/Fail <sup>(6)</sup>                 | Quarterly           | -                  |

**Footnotes:**

(1) See definitions in Part V of the permit.

(2) Grab sample will represent concentration for a 24 hour period.

(3) Daily Maximum: report the highest measured daily value for the reporting period on the DMR forms.

(4) When listed, the RRV is the detection level that must be achieved in reporting effluent monitoring or compliance data to the Department. The RRV is the Department's best determination of a level of analysis that is achievable by the majority of the commercial, university, or governmental laboratories using EPA approved methods or methods approved by the Department. PQLs are not acceptable substitutions for the RRV.

(5) Values reported that are equal to or less than the Department's RRV of 0.1 mg/L are considered to be in compliance with the permit.

(6) A result of  $LC_{50} > 100\%$  effluent (i.e., less than 50% mortality in 100% effluent) shall be reported as "pass." A result of  $LC_{50} \leq 100\%$  effluent shall be reported as "fail."

Analytical methods must be 40 CFR 136 approved methods unless otherwise specified or approved by the Department. Analysis must meet the RRV listed in Circular DEQ-7. PQLs are not acceptable substitutions for the RRVs.

For the individual parameter Total Residual Chlorine (mg/L): values reported that are equal to or less than DEQ's RRV of 0.1 mg/L are considered to be in compliance with the permit.

**F. Whole Effluent Toxicity (WET)**

Starting in the first calendar quarter following the effective date of this permit, the permittee shall, at least once each quarter, conduct acute static replacement WET tests on a grab sample of the effluent. Testing will employ two species per

quarter and will consist of five (5) effluent concentrations (100, 50, 25, 12.5, and 6.25 percent effluent) and a control. Dilution water and the control shall consist of water from the ExxonMobil Storm Water Ditch upstream of the discharge from Outfall 001. If water from the ExxonMobil Storm Water Ditch is shown to be toxic or dry, moderately hard reconstituted laboratory water may be substituted. Samples shall be collected on a two day progression; i.e., if the first quarterly sample is on a Monday, the second quarterly sample shall be collected on a Wednesday, etc. Saturdays, Sundays and Holidays will be skipped in the progression.

The static renewal WET tests shall be conducted in general accordance with the procedures set out in the latest revision of "*Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*," (EPA 821/R-02/012) and the "*Region VIII EPA NPDES Acute Test Conditions - Static Renewal Whole Effluent Toxicity Test*." The permittee shall conduct acute 48-hour static renewal WET tests using *Ceriodaphnia dubia* and acute 96-hour static renewal WET tests using fathead minnows (*Pimephales promelas*). The control of pH in the WET test utilizing CO<sub>2</sub> enriched atmospheres is allowed to prevent rising pH drift. The target pH selected must represent the pH value of the ExxonMobil Storm Water Ditch at the time of sample collection.

Acute toxicity occurs when 50 percent or more mortality is observed for either test species at any effluent concentration. If more than 10 percent control mortality occurs, the test is considered invalid and shall be repeated until satisfactory control survival is achieved, unless a specific individual exception is granted by the Department. This exception may be granted if less than 10 percent mortality was observed at the dilutions containing high effluent concentrations.

If acute toxicity occurs in a routine test, an additional test (a resample test) shall be conducted within 14 days of the date the permittee is informed of the toxicity. If acute toxicity occurs in the resample test, then the permittee is required to:

1. Increase the WET testing frequency from quarterly to monthly until further notified by the Department; and
2. Undertake a Toxicity Identification Evaluation (TIE)/Toxicity Reduction Evaluation (TRE).

In all cases, the results of all WET tests must be submitted to the Department in accordance with Part II of this permit.

The quarterly WET test results from the laboratory shall be reported along with the DMR form submitted for the end of the reporting calendar quarter (e.g., the WET test results for the reporting quarter ending on March 31 shall be reported with the March DMR due April 28<sup>th</sup>; the remaining quarterly WET test results

shall be submitted with the June, September, and December DMRs respectively). The format for the laboratory report shall be consistent with the latest revision of the "*Region VIII Guidance for Acute Whole Effluent Reporting*," and shall include all chemical and physical data as specified.

If the results for four consecutive quarters of WET testing indicate no acute toxicity, the permittee may request a reduction to quarterly acute WET testing on only one species at a time on an alternating basis. The Department may approve or deny the request based on the results and other available information without an additional public notice. If the request is approved, the test procedures are to be the same as specified above for the test species.

G. Special Conditions

Toxicity Identification Evaluation/Toxicity Reduction Evaluation

If the acute toxicity is confirmed as persistent by the required resample test, then the permittee is required to perform a Toxicity Identification Evaluation (TIE) / Toxicity Reduction Evaluation (TRE) in order to establish the cause(s) of the toxicity, to locate the source(s) of the toxicity, and to develop a method for the control of, or treatment for, the toxicity. The failure to initiate or conduct an adequate TIE/TRE, or delays in conducting such tests, is not a justification for noncompliance with the WET limits contained in Part I.B. and Part I.C. of this permit.

The permittee shall initiate a TRE using as guidance the EPA manual "*Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants*" (EPA/833/B-99/002) or the EPA manual "*Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations*" (EPA/600/2-88/070). A TRE plan shall be submitted to the Department within 45 days after the date the permittee is informed of the confirmation of the continuance of the effluent toxicity.

If the TRE/TIE establishes that the toxicity cannot be eliminated, the permittee shall submit a proposed compliance plan to the Department. The plan shall include the proposed approach to control toxicity and a proposed compliance schedule for the implementation of the proposed approach. If the approach and schedule are acceptable to the Department, this permit may be reopened and modified.

If the TRE/TIE shows that the toxicity is caused by pollutant(s) that may be controlled with specific numerical limitations, the permittee may:

- a. Submit an alternative control program for compliance with the numerical requirements; or



- b. If necessary, provide a modified whole effluent testing protocol which compensates for the pollutant(s) being controlled numerically.

If acceptable to the Department, this permit may be reopened and modified to incorporate any additional numerical limitations, a modified compliance schedule if judged necessary by the Department, and/or a modified whole effluent testing protocol.

The failure to conduct an adequate TRE/TIE, the failure to submit a plan or program as described above, or the submittal of a plan or program judged inadequate by the Department, shall not excuse the permittee from meeting the limits contained in Part I.B. or Part I.C. of this permit.

H. Compliance Schedule

The actions listed in Table 5 below must be completed on or before the respective scheduled completion dates. The completion of all actions or deliverables must be reported to the Department at the address listed in Part II.D of the permit and in accordance with the signatory requirements of Part IV.G of the permit.

| Table 5. Compliance Schedule   |              |   |   |
|--|--------------|---|---|
| Action   | Frequency    | Action Scheduled Completion Date <sup>(1)</sup>                     | Report Due Date <sup>(2)</sup>  |
| Submit a report documenting any action(s) taken towards meeting the final copper effluent limit of the permit  | 1/Year       | By December 31 <sup>st</sup> of the years 2016, 2017, 2018 and 2019 | Due on or before January 28 <sup>th</sup> of the years 2017, 2018, 2019, and 2020 |
| Begin complying with the final copper effluent limit of the permit   | Single Event | No Later than November 1, 2018                                      | NA  |
| <b>Footnotes:</b><br>NA = Not Applicable<br>(1) The actions must be completed on or before the scheduled completion dates.<br>(2) This notification must be postmarked or electronically submitted to DEQ on or before the scheduled due date. |              |   |   |

## II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Representative Sampling

Samples taken in compliance with the monitoring requirements established under Part I of this permit shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

B. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under Part 136, Title 40 of the Code of Federal Regulations, unless other test procedures have been specified in this permit. All flow-measuring and flow-recording devices used in obtaining the data submitted in self-monitoring reports must indicate values within 10 percent of the actual flow being measured.

C. Penalties for Tampering

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

D. Reporting of Monitoring Results

Self-monitoring results shall be submitted to the Department. Monitoring results obtained during the previous monitoring period shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1) and postmarked no later than the 28<sup>th</sup> day of the month following the completed reporting period. If no discharge occurs during the reporting period, then "No Discharge" shall be reported on the report form. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the "Signatory Requirements" (see Part IV.G. of this permit), and submitted to the Department at the following address:

Montana Department of Environmental Quality  
Water Protection Bureau  
PO Box 200901  
Helena, Montana 59620-0901  
Phone: (406) 444-3080

E. 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 unless otherwise specified in this permit.

F. Additional Monitoring by the Permittee

If the permittee monitors any additional pollutant or any pollutant more frequently than required by this permit using approved analytical methods as specified in this permit, the results of this monitoring shall be included in the analysis and reporting of the data submitted in the Discharge Monitoring Report. Such increased frequency shall also be indicated.

G. Records Contents

Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The initials or name(s) of the individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;



4. The time analyses were initiated;
5. The initials or name(s) of individual(s) who performed the analyses;
6. References and written procedures, when available, for the analytical techniques or methods used; and
7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

H. Retention of Records

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

I. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee shall report any serious incidents of noncompliance affecting the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The report shall be made to the Water Protection Bureau at (406) 444-3080 or the Office of Disaster and Emergency Services at (406) 324-4777. The following examples are considered serious incidents:
  - a. Any noncompliance which may seriously endanger health or the environment; or
  - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part III.G. of this permit, "Bypass of Treatment Facilities").
2. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
  - a. A description of the noncompliance and its cause;
  - b. The period of noncompliance, including exact dates and times;
  - c. The estimated time noncompliance is expected to continue if it has not been corrected; and

- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
  3. The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Protection Bureau, by phone, at (406) 444-3080.
  4. Reports shall be submitted to the addresses in Part II.D. of this permit, "Reporting of Monitoring Results."
- J. Other Noncompliance Reporting  
Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part II.D. of this permit are submitted. The reports shall contain the information listed in Part II.I.2. of this permit.
- K. Inspection and Entry  
The permittee shall allow the head of the Department, the Director, or an authorized representative thereof, 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.

### III. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply  
The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Montana Water 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 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 or one year in prison, or both, for the first conviction, and \$50,000 per day of violation or by imprisonment for not more than two years, or both, for subsequent convictions. MCA 75-5-611(9)(a) also provides for administrative penalties not to exceed \$10,000 for each day of violation and up to a maximum not to exceed \$100,000 for any related series of violations. Except as provided in Part III.G. of this permit, "Bypass of Treatment Facilities," nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

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. Proper Operation and Maintenance

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 a 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.

F. Removed Substances

Collected screenings, grit, solids, sludge, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard.

G. Bypass of Treatment Facilities

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III.G.2. and III.G.3. of this permit.

2. Notice:

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least 10 days before the date of the bypass.
- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.I. of this permit, "Twenty-four Hour Reporting."

3. Prohibition of bypass:

- a. Bypass is prohibited and the Department may take enforcement action against a permittee for a bypass, unless:
  - 1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - 2) 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 in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - 3) The permittee submitted notices as required under Part III.G.2. of this permit.
- b. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in Part III.G.3.a. of this permit.

**IV. 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:

1. 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; or
2. There are any planned substantial changes to the existing sewage sludge management practices of storage and disposal. The permittee shall give the

Department notice of any planned changes at least 180 days prior to their implementation.

- 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 revoked, modified 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 this permit, the permittee must apply for and obtain a new permit. The application must be submitted at least 180 days before the expiration date of this 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 revoking, modifying 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 with a narrative explanation of the circumstances of the omission or incorrect submittal and why they weren't supplied earlier.
- 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; or



- 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 specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters (a duly authorized representative may thus be either a named individual or an 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

All reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department and the EPA. Permit applications, permits and effluent data shall not be considered confidential and shall also be available for public inspection.

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

This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Department at least 30 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them;
3. The Department does not notify the existing permittee and the proposed new permittee of the intent to revoke or modify and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part IV.M.2. of this permit; and
4. Required annual and application fees have been paid.

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 the payment, the Department may:

1. Impose additional fee assessment(s) computed at the rates established under ARM 17.30.201; and
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 or authorization for which the fee is required. The Department may lift 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 sub-section. Suspensions are limited to one year, after which the permit will be terminated.

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; or
2. Water Quality Standards are Exceeded: If it is found that water quality standards or trigger values, excluding mixing zones designated by ARM 17.30.501-518, for parameters included in the permit or others, the department may modify the effluent limits or water management plan.

V. **DEFINITIONS**

1. **“30-day (and Monthly) Average”** other than for *E. coli* bacteria, means the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for *E. coli* bacteria. The calendar month shall be used for purposes of reporting self-monitoring data.
2. **“90-day (and Quarterly) Average”** other than for *E. coli* bacteria, means the arithmetic average of all samples collected during a consecutive 90-day period or calendar quarter, whichever is applicable. Geometric means shall be calculated for *E. coli* bacteria. The calendar month shall be used for purposes of reporting self-monitoring data.
3. **“180-day (and Six-Month or Semi-Annual) Average”** other than for *E. coli* bacteria, means the arithmetic average of all samples collected during a consecutive 180-day period or calendar half-year, whichever is applicable. Geometric means shall be calculated for *E. coli* bacteria. The calendar month shall be used for purposes of reporting self-monitoring data.



4. **“Annual Average Load”** means the arithmetic mean of all 30-day or monthly average loads reported during the calendar year for a monitored parameter.
5. **“Annual Maximum Limit”** means the maximum allowable discharge of a pollutant during a calendar year.
6. **“Average Monthly Limit”** means the maximum allowable discharge of a pollutant during a calendar month. Expressed as units of mass, the monthly discharge is cumulative mass discharged over the calendar month. Expressed as a concentration, it is the arithmetic average of all measurements taken that month.
7. **“BOD<sub>5</sub>”** means the five-day measure of pollutant parameter biochemical oxygen demand.
8. **“Bypass”** means the intentional diversion of waste streams from any portion of a treatment facility.
9. **“Composite Sample”** means a sample composed of two or more discrete aliquots (samples). The aggregate sample will reflect the average quality of the water or wastewater in the compositing or sample period. Composite sample may be composed of constant volume aliquots collected at regular intervals (simple composite) or flow proportioned.
10. **“Continuous”** means the measurement of effluent flow which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance process changes, or other similar activities.
11. **“Daily Discharge”** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.
12. **“Daily Maximum Limit”** means the maximum allowable discharge of a pollutant during a calendar day. Expressed as units of mass, the daily discharge is cumulative mass discharged over the course of the day. Expressed as a concentration, it is the arithmetic average of all measurements taken that day.
13. **“Department”** means the Montana Department of Environmental Quality.

14. **“Discharge”** means the injection, deposit, dumping, spilling, leaking, placing, or failing to remove any pollutant so that it or any constituent thereof may enter into state waters, including ground water.
15. **“Grab Sample”** means a sample which is taken from a waste stream on a one-time basis without consideration of flow rate of the effluent or without consideration for time.
16. **“Instantaneous”** measurement, for monitoring requirements, means a single reading, observation, or measurement.
17. **“Load Limits”** are mass-based discharge limits expressed in units such as lbs/day
18. **“Mixing Zone”** means a limited area of a surface water body or aquifer where initial dilution of a discharge takes place and where certain water quality standards may be exceeded.
19. **“Nondegradation”** 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.
20. **“Severe Property Damage”** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
21. **“TDS”** means the pollutant parameter total dissolved solids.
22. **“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.
23. **“TSS”** means the pollutant parameter total suspended solids.