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Attorneys for JR Civil, LLC

Filed with the  
MONTANA BOARD OF  
ENVIRONMENTAL REVIEW  
This 11 day of October, 2017  
at 10:36 o'clock a.m.  
By: Lindsay Ford

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

IN THE MATTER OF: VIOLATIONS  
OF THE WATER QUALITY ACT BY  
JR CIVIL, LLC, BOZEMAN,  
GALLATIN COUNTY, MONTANA  
(FID 2552, PERMIT MTG070826)

DOCKET No. WQ-17-03

**NOTICE OF APPEAL AND REQUEST  
FOR HEARING**

COMES NOW, JR Civil, LLC ("JR Civil"), and through its counsel of record, respectfully submits this Notice of Appeal of the Montana Department of Environmental Quality's Administrative Penalty Order dated September 11, 2017. A copy of the Administrative Penalty Order is attached to this Notice of Appeal as Exhibit A. JR Civil also requests a hearing pursuant to § 75-5-611(4), MCA, before the Montana Board of Environmental Review.

DATED this 4<sup>th</sup> day of October, 2017.


TARLOW STONECIPHER  
WEAMER & KELLY, PLLC

Matthew Haus  
Matthew A. Haus  
Attorney for JR Civil

**CERTIFICATE OF SERVICE**

I hereby certify that on the 4<sup>th</sup> day of October, 2017, a copy of the foregoing Notice of Appeal and Request for Hearing served upon the following by U.S. mail:

Board Secretary  
Board of Environmental Review  
P.O. Box 200901  
Helena, MT 59620-0901

  
Matthew A. Haus

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

IN THE MATTER OF:  
VIOLATIONS OF THE WATER QUALITY ACT  
BY JR CIVIL, LLC, BOZEMAN, GALLATIN  
COUNTY, MONTANA. (FID 2552, PERMIT  
MTG070826)

ADMINISTRATIVE PENALTY ORDER

DOCKET No. WQ-17-03

**I. NOTICE OF VIOLATION**

Pursuant to the authority of Sections 75-5-611 and 75-5-617, Montana Code Annotated (MCA), the Department of Environmental Quality (Department) hereby gives notice to JR Civil, LLC. (JR Civil) of the following Findings of Fact and Conclusions of Law with respect to violations of the Water Quality Act (WQA) (Title 75, chapter 5, part 6, MCA) and the Administrative Rules of Montana (ARM) (Title 17, chapter 30) adopted thereunder.

**II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Department hereby makes the following Findings of Fact and Conclusions of Law:

1. The Department is an agency of the executive branch of government of the State of Montana, created and existing under the authority of Section 2-15-3501, MCA.
2. The Department administers the WQA and the ARM adopted thereunder.
3. JR Civil is an active corporation registered to do business in the State of Montana, and is a "person" as defined in Section 75-5-103(28), MCA.
4. JR Civil was installing infrastructure and providing service connections to a community wastewater treatment system as part of the Gallatin Gateway Wastewater Improvement Project (Project) at the time of the violations.
5. The Department issues a General Permit for Discharges Associated with Construction Dewatering Activity (Permit) that is effective for a 5-year period. The effective dates for the current General Permit are September 1, 2015 to February 29, 2020.

6. The Permit applies to point source discharges of wastewater associated with dewatering of cofferdams, trenches, excavation pits or other excavations associated with construction activity.

7. An entity that has obtained coverage under the General Permit is referred to as the "Permittee".

8. JR Civil obtained coverage under the General Permit (Permit) for 3 outfalls (001,002 and 003); an authorization letter was sent to JR Civil on March 6, 2017 assigning permit number MTG070826, identified the outfalls as Dewatering Category B (Category B) for purposes of monitoring and turbidity effluent limit requirements, and informed JR Civil of the requirement to submit their Discharge Monitoring Reports (DMRs) electronically using "NetDMR".

9. Category B has a turbidity maximum daily effluent limit of 20 Nephelometric Turbidity Units (NTUs).

10. Part II.C.2 of the Permit requires Permittees to develop and implement a written, site-specific, Dewatering Control Plan (Plan), prior to initiating dewatering, that addresses how the permittee will manage the project to meet their turbidity effluent limits. The Plan must be kept onsite and made available for inspection.

*Causing pollution of state water*

11. Section 75-5-605(1)(a), MCA, states it is unlawful to cause pollution, as defined in Section 75-5-103, MCA, of any state waters or to place or cause to be placed any wastes where they will cause pollution of any state waters.

12. Section 75-5-103(30)(a)(i), MCA, defines pollution as contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor.

13. On March 23, 2017, the Department received a citizen complaint alleging that turbid water was being discharged from construction dewatering activities (Dewatering) into the Gallatin River.

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1 14. On that same day, Department Inspectors (Inspectors) responded to the complaint and  
2 conducted an unannounced Compliance Evaluation Inspection (March CEI). The Inspectors were accompanied  
3 on the March CEI by representatives of JR Civil.

4 15. During the March CEI, the Inspectors observed, photographed, and sampled sediment-laden  
5 water from JR Civil's dewatering activities that were discharging from outfall 001 into the Gallatin River.  
6 Onsite sample analysis concluded JR Civil's discharge from pump 1 at outfall 001 was measured to be 55  
7 NTUs, a 175 percent increase over the permitted 20 NTUs; a second discharge from pump 3 at outfall 001 was  
8 measured to be in excess of 750 NTU's, a 3,650 percent increase over the permitted 20 NTUs.

9 16. During the March CEI the Inspector provided the JR Civil representatives with compliance  
10 assistance, describing the activities that needed to be taken to bring the site into compliance with the General  
11 Permit.

12 17. On March 31, 2017, the Department sent a Violation Letter (March VL) identifying the  
13 violations and providing instruction on corrective actions required to bring the site into compliance with the  
14 General Permit.

15 18. On April 3, 2017, the Department received a second citizen complaint regarding the discharge  
16 of turbid water from the Project into the Gallatin River.

17 19. On April 3, 2017, an Inspector responded to the complaint and conducted a second CEI (April  
18 CEI) at the Project. The Inspector observed a turbid discharge to the Gallatin River and Best Management  
19 Practices (BMPs) that were inadequate to control the discharge. Onsite sample analysis was again conducted at  
20 outfall 001 where it discharged to the Gallatin River; pumps 1 and 2 discharged turbidity measured to be greater  
21 than 1,000 NTU's, a 4,900 percent increase over the permitted limit of 20 NTUs.

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24 //

1 20. On April 24, 2017, JR Civil submitted a response to the March VL. As part of the response JR  
2 Civil was required to submit sample analysis results for turbidity. JR Civil's sample analysis results concluded  
3 that turbidity was measured to be 72 NTUs on April 6, 2017, a 260 percent increase over the permitted 20  
4 NTUs.

5 21. On May 22, 2017, the Department sent a second VL addressing the continued exceedances of  
6 the turbidity limits in their discharges to the Gallatin River.

7 22. An exceedance of the permitted turbidity limit is considered "pollution" of state waters.

8 23. JR Civil's discharge of sediment-laden wastewater that exceeded permitted effluent limits into  
9 the River caused pollution of state waters.

10 24. JR Civil violated Section 75-5-605(1)(a), MCA, by causing pollution of state water three times,  
11 on March 23, April 3, and April 6, 2017.

12 ***Failure to develop and implement a Dewatering Control Plan***

13 25. Part II.C.2 of the Permit requires Permittees to develop and implement a written, site specific,  
14 Dewatering Control Plan prior to the onset of dewatering. The Plan must include: installation, maintenance and  
15 inspection of BMPs, minimization of turbidity and total suspended solids in the initial discharge, prevention of  
16 spilled or leaking fluids from entering state water, minimize erosion from the discharge, discharge monitoring  
17 and reporting procedures, and corrective action protocols.

18 26. During the March CEI, the Inspectors requested to review the Plan.

19 27. A Plan was provided, however it did not meet the conditions specified by the Permit. The Plan  
20 was a diagram of the dewatering operations; it did not include evaluation, installation and maintenance of  
21 BMPs, measures to be taken to prevent initial purge discharges from reaching state waters, measures to be taken  
22 to minimize erosion from the discharge, discharge monitoring procedures, BMP inspection procedures, and  
23 corrective action protocol as required by the permit.

24 //

1 28. The March VL required JR Civil to submit a new Plan that met the conditions specified by the  
2 Permit as part of their response provided on April 24, 2017.

3 29. The Department did not receive a new plan from JR Civil.

4 30. JR Civil violated Section 75-5-605 (1)(b), MCA, ARM 17.30.1342(1) and Part II.C.2 of the  
5 Permit by failing to develop and implement a written, site-specific, Dewatering Control Plan.

6 *Failure to monitor, keep records and report*

7 31. The Permit requires Permittees to conduct effluent monitoring as required by their assigned  
8 Dewatering Category, maintain records of the monitoring, and submit Discharge Monitoring Reports (DMRs)  
9 no later than the 28<sup>th</sup> day of the month following the monitoring period. If no discharge occurred, Permittees  
10 are required to submit a statement of "No Discharge".

11 32. The Project was assigned a dewatering category of "B"; Permittees with a "B" designation are  
12 required to collect an initial sample of the effluent within the first 4 hours of when the discharge(s) commenced,  
13 and then visually observe the upstream receiving water(s) and the discharge(s) from the outfall(s) at a minimum  
14 one time per each day a discharge occurred. Permittees are also required to collect a grab sample of the  
15 discharge(s) 5 times per week, and have the samples analyzed for turbidity.

16 33. Permittees are required to keep a "Daily Log" during periods of dewatering activities in  
17 accordance to Part II.C.1 of the Permit that contain the date and time of observations, identification of the  
18 person recording the observation, monitoring results (visual and grab sample), inspection observations as  
19 identified in the site's Dewatering Control Plan, any problems observed and the corrective action(s) performed.  
20 The Daily Log is to be kept for a minimum of 3 years and provided to the Department when requested.

21 34. During the March CEI, the Inspectors requested to review the Daily Log, the records provided  
22 did not include information on the collection and analysis of grab samples; JR Civil representatives confirmed  
23 that grab samples were not being collected.

24 //



1 35. JR Civil provided Daily logs and analytical results to the Department as part of the corrective  
2 actions required by the March VL. The logs did not include daily sample results from discharges that occurred  
3 during the periods from March 30 to April 3, 2017; April 8 to April 10, 2017 and from April 12 to April 16,  
4 2017.

5 36. A records review show that the sample analysis are not being reported to the Department  
6 through the use of NetDMR as required. JR Civil has yet to sign up for NetDMR.

7 37. DMRs were not submitted for the periods ending March 31 and April 30, 2017.

8 38. JR Civil violated Section 75-5-605(1)(b) MCA, ARM 17.30.1342(1) and Part II.B, Part II.C.1  
9 and 3, and Part II.3.J of the Permit two times by failing to comply with conditions of the Permit, specifically  
10 failure to monitor, keep records and submit DMRs as required for the March and April 2017 reporting periods.

### 11 III. ORDER

12 39. This Administrative Penalty Order (Order) is issued to JR Civil pursuant to the authority vested  
13 in the State of Montana, acting by and through the Department under the WQA, Section 75-5-101, *et seq.*,  
14 MCA, and the administrative rules adopted thereunder, ARM Title 17, chapter 30. Based on the foregoing  
15 Findings of Fact and Conclusions of Law and the authority cited above, the Department hereby ORDERS JR  
16 Civil to take the following actions:

17 40. JR Civil is hereby assessed an administrative penalty in the amount of \$31,713 for the  
18 violations cited herein. The penalty calculation is attached.

19 41. No later than 60 days from the effective date of this Consent Order, JR Civil shall pay to the  
20 Department the \$31,713 penalty. To pay by credit/debit card, contact the Department's Enforcement Division  
21 Fiscal Manager at (406) 444-0379. To pay by check or money order, make payable to the "Montana Department  
22 of Environmental Quality" containing the notation "Penalty Payment for FID 2552" and send to:

23 //

24 //



1 Chad W. Anderson, Program Manager  
2 Enforcement Division  
3 Department of Environmental Quality  
4 1520 East Sixth Avenue  
5 P.O. Box 200901  
6 Helena, MT 59620-0901

7  
8 42. Failure to pay any penalty by the specified deadline, as ordered herein, constitutes a violation  
9 of this Consent Order and may result in the Department seeking a court order to assess additional civil penalties.

10 **IV. NOTICE OF APPEAL RIGHTS**

11 43. JR Civil may appeal this Order under Section 75-5-611, MCA by filing a written request for a  
12 hearing before the Montana Board of Environmental Review no later than 30 days after service of this Order.  
13 Any request for a hearing must be in writing and sent to:

14 Board Secretary  
15 Board of Environmental Review  
16 P.O. Box 200901  
17 Helena, MT 59620-0901

18 44. Hearings are conducted as provided in the Montana Administrative Procedure Act, Title 2,  
19 chapter 4, part 6, MCA. Hearings are normally conducted in a manner similar to court proceedings, with  
20 witnesses being sworn and subject to cross-examination. Proceedings prior to the hearing may include formal  
21 discovery procedures, including interrogatories, requests for production of documents, and depositions. You  
22 have the right to be represented by an attorney in all proceedings. ARM 1.3.231(1).

23 45. If a hearing is not requested within 30 days after service of this Order, the opportunity for a  
24 contested case appeal is waived.

46. Service by mail is complete on the date of receipt.

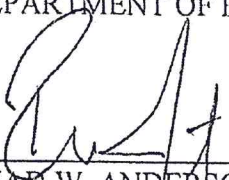
47. This Order becomes effective upon signature of the Department.

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1 IT IS SO ORDERED:

2 STATE OF MONTANA  
3 DEPARTMENT OF ENVIRONMENTAL QUALITY

4  FOR  
5 CHAD W. ANDERSON, Program Manager  
6 Enforcement Division

7 9/11/17  
8 Date

**Department of Environmental Quality - Enforcement Division  
Penalty Calculation Worksheet**

Responsible Party Name:	JR Civil, LLC
FID:	2552
Statute:	Water Quality Act
Maximum Penalty Authority:	\$100,000.00 \$10,000.00
Date:	
Name of Employee Calculating Penalty:	Susan Bawden

**Penalty Calculation #1**

Description of Violation:
JR Civil violated Section 75-5-605(1)(a), MCA, ARM 17.30.1342(1) and Part II.A of the General Permit by discharging construction dewatering water in exceedance of permitted limits causing pollution of the Gallatin River.

**I. BASE PENALTY**

**Nature**

Explanation:	
Discharging construction dewatering water in exceedance of permitted limits harms the environment by disrupting aquatic habitats.	
Potential to Harm Human Health or the Environment	X
Potential to Impact Administration	

**Gravity and Extent**

Gravity Explanation:
Pollution, or the exceedance of the water quality standard for turbidity, harmed state waters and therefore the violation has a major gravity per ARM 17.4.303(5)(a).
Extent Explanation:
Turbid water was seen discharging into the river at a rapid rate and migrating a significant distance downstream, therefore the extent is moderate per ARM 17.4.303(4)(a).

**Harm to Human Health or the Environment**

**Gravity**

Extent	Major	Moderate	Minor	
Major	0.85	0.70	0.55	
Moderate	0.70	0.55	0.40	
Minor	0.55	0.40	0.25	
	Gravity and Extent Factor:			0.70

**Impact to Administration**

**Gravity**

Major	Moderate	Minor	
0.50	0.40	0.30	
Gravity Factor:			

**BASE PENALTY (Maximum Penalty Authority x Gravity and Extent Factor):** **\$7,000.00**



## II. ADJUSTED BASE PENALTY

### A. Circumstances (up to 30% added to Base Penalty)

Explanation:

JR Civil had a permit (MTG070826) and was therefore aware of the discharge and effluent limit requirements for construction dewatering. A Department inspector conducted two compliance evaluation inspections at the site and provided JR Civil with compliance assistance; walking onsite staff through the corrective actions required to bring the site into compliance. JR Civil did not complete the required corrective actions in the time allowed. JR Civil was granted an extension and the corrective actions remained incomplete. JR Civil has shown a major amount of culpability in not taking reasonable precaution to prevent the pollution from occurring; therefore, the base penalty is being increased by 30 %.

Circumstances Percent:	0.30
Circumstances Adjustment (Base Penalty x Circumstances Percent)	\$2,100.00

### B. Good Faith and Cooperation (up to 10% subtracted from Base Penalty)

Explanation:

The Department is unaware of any efforts by JR Civil in GFC, therefore there is no adjustment to the base penalty for GFC.

Good Faith & Coop. Percent:	0.00
Good Faith & Coop Adjustment (Base Penalty x G F & Coop. Percent)	\$0.00

### C. Amounts Voluntarily Expended (AVE) (up to 10% subtracted from Base Penalty)

Explanation:

The Department is unaware of any amounts expended above and beyond that which is necessary to bring the site into compliance, therefore there is no adjustment to the base penalty for AVE

AVE Percent:	0.00
Amounts Voluntarily Expended Adjustment (Base Penalty x AVE Percent)	\$0.00

## ADJUSTED BASE PENALTY SUMMARY

Base Penalty	\$7,000.00
Circumstances	\$2,100.00
Good Faith & Cooperation	\$0.00
Amt. Voluntarily Expended	\$0.00
<b>ADJUSTED BASE PENALTY</b>	<b>\$9,100.00</b>

## III. DAYS OF VIOLATION

Explanation:

The Department Inspector's observations and sample analysis indicate JR Civil exceeded their turbidity limit of 20 NTU's on three occasions, March 23, 2017 (>750 NTU), April 3, 2017 (>1,000 NTU), April 6, 2017 (72 NTU), therefore the Department is calculating 3 days of violation.

Number of Days:	3
<b>ADJUSTED BASE PENALTY x NUMBER OF DAYS:</b>	<b>\$27,300.00</b>

## IV. OTHER MATTERS AS JUSTICE MAY REQUIRE

Explanation:

Not applicable.

<b>OTHER MATTERS AS JUSTICE MAY REQUIRE TOTAL:</b>	<b>\$0.00</b>
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## V. ECONOMIC BENEFIT

Explanation:

JR Civil realized an economic benefit of \$ 2,913 by not designing and implementing appropriate Best Management Practices (BMP's) to meet the permitted effluent limits prior to discharge to the Gallatin River. Economic Benefit Analysis attached.

<b>ECONOMIC BENEFIT REALIZED:</b>	<b>\$2,913.00</b>
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Responsible Party Name:	JR Civil, LLC
FID:	2552
Statute:	Water Quality Act
Maximum Penalty Authority:	\$5,000.00 \$500.00

#### Penalty Calculation #2

Description of Violation:
JR Civil failed to develop and implement an adequate Dewatering Control Plan in violation of Section 75-5-605(1)(b), MCA, ARM 17.30.1342(1), and Section II.C.1 of the General Permit.

#### I. BASE PENALTY

##### Nature

Explanation:
Failure to develop and implement an adequate Dewatering Control Plan impacts the Administration of the Water Quality Act by eliminating the Department's ability to evaluate the project.
Potential to Harm Human Health or the Environment
Potential to Impact Administration
X

##### Gravity and Extent

Gravity Explanation:
Failure to operate in accordance with the permit has Moderate Gravity per ARM 17.4.303(5)(b)(ii).
Extent Explanation:
Extent is not applicable when the violation only impacts Administration.

#### Harm to Human Health or the Environment

##### Gravity

Extent	Major	Moderate	Minor
Major	0.85	0.70	0.55
Moderate	0.70	0.55	0.40
Minor	0.55	0.40	0.25
Gravity and Extent Factor:			

#### Impact to Administration

##### Gravity

Major	Moderate	Minor
0.50	0.40	0.30
Gravity Factor:		
0.40		

BASE PENALTY (Maximum Penalty Authority x Gravity Factor): \$200.00



## II. ADJUSTED BASE PENALTY

### A. Circumstances (up to 30% added to Base Penalty)

Explanation:

JR Civil had a permit (MTG070826) and was therefore aware of the requirement to develop and implement an adequate Construction Dewatering Plan. A Department inspector conducted two compliance evaluation inspections at the site and provided JR Civil with compliance assistance. JR Civil shows major culpability for not taking appropriate precautions to prevent the violation from happening; therefore the Department is increasing the base penalty by 30%.

Circumstances Adjustment (Base Penalty x Circumstances Percent)	Circumstances Percent:	0.30
		\$60.00

### B. Good Faith and Cooperation (up to 10% subtracted from Base Penalty)

Explanation:

The Department is unaware of any GFC on behalf of JR Civil; therefore there is no adjustment to the base penalty.

Good Faith & Coop Adjustment (Base Penalty x G F & Coop. Percent)	Good Faith & Coop. Percent:	0.00
		\$0.00

### C. Amounts Voluntarily Expended (AVE) (up to 10% subtracted from Base Penalty)

Explanation:

The Department is unaware of any amounts expended above and beyond that which is necessary to bring the site into compliance, therefore there is no adjustment to the base penalty for AVE

Amounts Voluntarily Expended Adjustment (Base Penalty x AVE Percent)	AVE Percent:	0.00
		\$0.00

## ADJUSTED BASE PENALTY SUMMARY

Base Penalty	\$200.00
Circumstances	\$60.00
Good Faith & Cooperation	\$0.00
Amt. Voluntarily Expended	\$0.00
<b>ADJUSTED BASE PENALTY</b>	<b>\$260.00</b>

## III. DAYS OF VIOLATION

Explanation:

Failure to develop and implement a Construction Dewatering Plan is a one day violation.

ADJUSTED BASE PENALTY x NUMBER OF DAYS:	Number of Days:	1
		\$260.00

## IV. OTHER MATTERS AS JUSTICE MAY REQUIRE

Explanation:

Not applicable.

OTHER MATTERS AS JUSTICE MAY REQUIRE TOTAL:	\$0.00
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## V. ECONOMIC BENEFIT

Explanation:

The Department believes JR Civil realized an economic benefit of \$521 by avoiding the costs of having an adequate dewatering plan developed. Economic Benefit Analysis attached.

ECONOMIC BENEFIT REALIZED:	\$521.00
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Responsible Party Name:	JR Civil, LLC
FID:	2552
Statute:	Water Quality Act
Maximum Penalty Authority:	\$5,000.00 \$500.00

Penalty Calculation #3
Description of Violation:
JR Civil violated Section 75-5-605(1)(b), MCA, ARM 17.30.1342(1), and Part II.B of the permit by failing to comply with the conditions of the permit. JR Civil failed to conduct effluent monitoring, maintain records of the monitoring and submit Discharge Monitoring Reports (DMRs) on at least 2 occasions for the monitoring periods ending March 31, 2017, and April 30, 2017.

#### I. BASE PENALTY

##### Nature

Explanation:
The failure to conduct the required effluent sampling and submit complete and accurate DMRs within the required timeframe, adversely impacts the Department's administration of the MPDES permit program and state statutes because it eliminates the Department's ability to monitor if the permitted discharge is in compliance with permit effluent limits.
Potential to Harm Human Health or the Environment
Potential to Impact Administration
X

##### Gravity and Extent

Gravity Explanation:
The failure to monitor or report in a timely manner is considered a Moderate gravity per ARM 17.4.303(5)(b)(ii).
Extent Explanation:
Extent is not applicable when the violation only impacts Administration.

Harm to Human Health or the Environment			
Gravity			
Extent	Major	Moderate	Minor
Major	0.85	0.70	0.55
Moderate	0.70	0.55	0.40
Minor	0.55	0.40	0.25
Gravity and Extent Factor:			

Impact to Administration			
Gravity			
Major	Moderate	Minor	
0.50	0.40	0.30	
Gravity Factor:			0.40

BASE PENALTY (Maximum Penalty Authority x Gravity Factor): \$200.00

## II. ADJUSTED BASE PENALTY

### A. Circumstances (up to 30% added to Base Penalty)

#### Explanation:

As a permittee, JR Civil has knowledge of the requirement to conduct monitoring, analysis, and submit DMR's. The Department sent violation letters on March 31, 2017 and May 22, 2017 to notify JR Civil of the violation and describe the corrective actions required. JR Civil had control over the violation and did not take reasonable precaution to prevent the violation. In its response to the May 22, 2017 violation letter, JR Civil stated they would "get signed up to DEQ using NETDMR to report any results that DEQ requires going forward with our dewatering program that we have in place at this time". JR Civil has not signed up for NETDMR or reported any results of analysis up to and including the day this penalty calculation is being completed. The Department believes JR Civil shows major culpability for the violation and is therefore increasing the base penalty by 30%.

Circumstances Percent:	0.30
Circumstances Adjustment (Base Penalty x Circumstances Percent)	\$60.00

### B. Good Faith and Cooperation (up to 10% subtracted from Base Penalty)

#### Explanation:

The Department is unaware of any GFC on behalf of JR Civil; therefore there is no adjustment to the base penalty.

Good Faith & Coop. Percent:	
Good Faith & Coop Adjustment (Base Penalty x G F & Coop. Percent)	\$0.00

### C. Amounts Voluntarily Expended (AVE) (up to 10% subtracted from Base Penalty)

#### Explanation:

The Department is unaware of any AVE by JR Civil beyond that which is required to bring the site into compliance with the permit; therefore there is no adjustment to the base penalty for AVE.

AVE Percent:	0.00
Amounts Voluntarily Expended Adjustment (Base Penalty x AVE Percent)	\$0.00

## ADJUSTED BASE PENALTY SUMMARY

Base Penalty	\$200.00
Circumstances	\$60.00
Good Faith & Cooperation	\$0.00
Amt. Voluntarily Expended	\$0.00
<b>ADJUSTED BASE PENALTY</b>	<b>\$260.00</b>

## III. DAYS OF VIOLATION

#### Explanation:

JR Civil failed to submit DMRs for the monitoring periods that ended March 31, 2017 and April 30, 2017. Each failure to submit a DMR is considered 1 day of violation.

Number of Days:	2
<b>ADJUSTED BASE PENALTY x NUMBER OF DAYS:</b>	<b>\$520.00</b>

## IV. OTHER MATTERS AS JUSTICE MAY REQUIRE

#### Explanation:

Not applicable.

<b>OTHER MATTERS AS JUSTICE MAY REQUIRE TOTAL:</b>	<b>\$0.00</b>
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## V. ECONOMIC BENEFIT

#### Explanation:

The Department believes that JR CIVIL realized an economic benefit in the amount of \$199 by not completing required monitoring, analyzing, and submitting DMRS. Economic Benefit Analysis attached.

<b>ECONOMIC BENEFIT REALIZED:</b>	<b>\$199.00</b>
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Responsible Party Name:	JR Civil, LLC
FID:	2552
Statute:	Water Quality Act

#### VI. HISTORY

Explanation:

Historical Violation: Harm to Human Health or the Environment - 10%

Historical Violation: Impact to Administration - 5%

Historical Violation #1 Percent:	
Historical Violation #2 Percent:	
Historical Violation #3 Percent:	
Historical Violation #4 Percent:	
Historical Violation #5 Percent:	
Historical Violation #6 Percent:	
Total History Percent (cannot exceed 30%):	0.00

Base Penalty #1	\$7,000.00
Base Penalty #2	\$200.00
Base Penalty #3	\$200.00
Base Penalty #4	
Base Penalty #5	
Total Base Penalties:	

HISTORY ADJUSTMENT (Base Penalty x History Percent):



**Department of Environmental Quality - Enforcement Division  
Penalty Calculation Summary**

Responsible Party Name:	JR Civil, LLC	
FID:	2552	
Statute:	Water Quality Act	
Maximum Penalty Authority:	\$100,000.00	\$5,000
Date:	11 SEPT 17	
Signature of Employee Calculating Penalty:	Susan Bawden	

**Penalty #1      Penalty #2      Penalty #3**

<b>I. Base Penalty (Maximum Penalty Authority x Matrix Factor)</b>				
Maximum Penalty Authority:	\$10,000.00	\$500.00	\$500.00	
Percent Harm - Gravity and Extent:	0.70	0.00	0.00	
Percent Impact - Gravity:	0.00	0.40	0.40	
<b>Base Penalty:</b>	<b>\$7,000.00</b>	<b>\$200.00</b>	<b>\$200.00</b>	
<b>II. Adjusted Base Penalty</b>				
Base Penalty:	\$7,000.00	\$200.00	\$200.00	
Circumstances:	\$2,100.00	\$60.00	\$60.00	
Good Faith and Cooperation:	\$0.00	\$0.00	\$0.00	
Amount Voluntarily Expended:	\$0.00	\$0.00	\$0.00	
<b>Adjusted Base Penalty:</b>	<b>\$9,100.00</b>	<b>\$260.00</b>	<b>\$260.00</b>	
<b>III. Days of Violation or</b>				
<b>Number of Occurrences</b>	<b>3</b>	<b>1</b>	<b>2</b>	
<b>Total Adjusted Penalty:</b>	<b>\$27,300.00</b>	<b>\$260.00</b>	<b>\$520.00</b>	<b>\$28,080.00</b>
<b>IV. Other Matters as Justice</b>				
<b>May Require</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	
<b>V. Economic Benefit</b>	<b>\$2,913.00</b>	<b>\$521.00</b>	<b>\$199.00</b>	<b>\$3,633.00</b>
<b>VI. History*</b>				
Subtotal(s)	\$30,213.00	\$500.00	\$719.00	\$0.00
				<u><b>\$31,713.00</b></u>
				<b>\$31,713.00</b>

\*JR Civil Inc does not have a prior history of violations of the Water Quality Act documented in either an administrative order, judicial order, or judgment within the last three years.

Run Name = BMPs		Dewatering Plan Monitoring		
<u>Present Values as of Noncompliance Date (NCD),</u>		<u>23-Mar-2017</u>	<u>01-Mar-2017</u>	<u>31-Mar-2017</u>
A) On-Time Capital & One-Time Costs		\$2,779	\$495	\$190
B) Delay Capital & One-Time Costs		\$0	\$0	\$0
C) Avoided Annually Recurring Costs		\$0	\$0	\$0
D) Initial Economic Benefit (A-B+C)		\$2,779	\$495	\$190
E) Final Econ. Ben. at Penalty Payment Date,				
	<u>01-Dec-2017</u>	<u>\$2,913</u>	<u>\$521</u>	<u>\$199</u>
 <i>C-Corporation w/ MT tax rates</i>				
Discount/Compound Rate	7.0%	7.0%	7.0%	
Discount/Compound Rate Calculated By:	BEN	BEN	BEN	
Compliance Date	11-Jul-2017	16-Aug-2017	31-May-2017	
<u>Capital Investment:</u>	avoided			
Cost Estimate	\$4,256	\$0	\$0	
Cost Estimate Date	15-Aug-2017	N/A	N/A	
Cost Index for Inflation	PCI	N/A	N/A	
Consider Future Replacement (Useful Life)	y (15)	N/A (N/A)	N/A (N/A)	
<u>One-Time, Nondepreciable Expenditure:</u>	avoided	avoided		
Cost Estimate	\$0	\$500	\$192	
Cost Estimate Date	N/A	16-Aug-2017	16-Aug-2017	
Cost Index for Inflation	N/A	PCI	PCI	
Tax Deductible?	N/A	N	N	
<u>Annually Recurring Costs:</u>				
Cost Estimate	\$0	\$0	\$0	
Cost Estimate Date	N/A	N/A	N/A	
Cost Index for Inflation	N/A	N/A	N/A	
<u>User-Customized Specific Cost Estimates:</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	
On-Time Capital Investment				
Delay Capital Investment				
On-Time Nondepreciable Expenditure				
<u>Delay Nondepreciable Expenditure</u>				