

**MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

AUTHORIZATION TO DISCHARGE UNDER THE
MONTANA GROUND WATER POLLUTION CONTROL SYSTEM

In compliance with Montana Water Quality Act, Title 75, Chapter 5, Montana Code Annotated (MCA) and the Administrative Rules of Montana (ARM) 17.30. Subchapter 5, Subchapter 7, and Subchapter 10 *et seq.*,

OT Mining Corporation

is authorized to discharge from its **Basin Mill tailings impoundment**,

located at **1/4 Southeast, Section 17, Township 6 North, Range 5 West, Jefferson County**,

to receiving waters, **Class I ground water**,

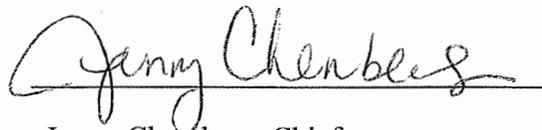
in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein. Authorization for discharge is limited to those outfalls specifically listed in the permit. The numeric effluent limits, water quality standards, and trigger values/nonsignificance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

This permit shall become effective: **December 1, 2009.**

This permit and the authorization to discharge shall expire at midnight, **November 30, 2014.**

FOR THE MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY

COPY



Jenny Chambers, Chief
Water Protection Bureau
Permitting & Compliance Division

Issuance Date: October 15, 2009

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I. EFFLUENT LIMITATIONS, MONITORING REQUIREMENTS & OTHER CONDITIONS

A. Description of Discharge Points and Mixing Zone

The authorization to discharge provided under this permit is limited to those outfalls specially designated below as discharge locations. Discharges at any location not authorized under an MGWPCS permit is a violation of the Montana Water Quality Act and could 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

Description

001

Location: From the tailings impoundment located east of Basin, in Tom Benton Gulch, located at N 45° 41' 34" latitude, W 112° 17' 47" longitude.

Mixing Zone: 150 feet from the tailings impoundment, as defined by the monitoring wells. Mixing depth is 15 feet and the width is 375 feet.

Treatment: Primary settling in tailings impoundment.

B. Effluent Limitations

Monitoring wells – Compliance points

Effective immediately and lasting through the term of the permit, the ground water quality, as a minimum, shall meet the compliance limitations as set forth in Table 1.

Table 1: Compliance Limitations – Monitoring Wells		
Parameter	Units	Daily Maximum Limit ⁽¹⁾
pH	s.u.	Within the range 6.0 – 9.0
Specific Conductivity (SC)	µS/cm	1,000
Nitrate plus Nitrite as N	mg/L	10.0
Antimony, dissolved	mg/L	0.006
Arsenic, dissolved	mg/L	0.010
Beryllium, dissolved	mg/L	0.004
Cadmium, dissolved	mg/L	0.005
Chromium, dissolved	mg/L	0.100
Copper, dissolved	mg/L	1.30
Iron, dissolved	mg/L	0.300
Lead, dissolved	mg/L	0.015
Manganese, dissolved	mg/L	0.050
Mercury, dissolved	mg/L	0.002
Nickel, dissolved	mg/L	0.100
Selenium, dissolved	mg/L	0.050
Silver, dissolved	mg/L	0.100
Thallium, dissolved	mg/L	0.002
Zinc, dissolved	mg/L	2.00
Footnotes:		
1. See definitions, Part V of the permit		

C. Self-Monitoring Requirements

1. Monitoring wells

Effective upon issuance and during milling operation, the permittee shall monitor the ground water in the middle and east monitoring wells for the parameters and at the frequency specified in Table 2. Samples or measurements shall be representative of the volume and nature of the monitored activity. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge or overflow occurred.

When the mill is not operating, the parameters in Table 2 will be monitored annually, as a minimum frequency.

Analytical methods must be 40 CFR 136 approved methods unless otherwise approved by the Department. Analysis must meet the Required Reporting Values listed in DEQ-7 (February 2008). PQL (Practical Quantification Limits) are not acceptable substitutions for RRV.

Table 2: Ground Water Monitoring Requirements – Middle and East Wells				
Parameter	Unit	Sample Frequency	Sample Type ¹	RRV ²
Static Water Level	Feet (elevation above sea level)	1/Month ³	Instantaneous	---
pH	s.u.	1/Month ³	Instantaneous	---
Specific Conductivity	µS/cm	1/Month ³	Instantaneous	---
Nitrate plus Nitrite as N	mg/L	1/Month ³	Grab	0.010
Total Ammonia as N	mg/L	1/Month ³	Grab	0.050
Antimony, dissolved	mg/L	1/Quarter ⁴	Grab	0.003
Arsenic, dissolved	mg/L	1/Month ³	Grab	0.003
Beryllium, dissolved	mg/L	1/Quarter ⁴	Grab	0.001
Cadmium, dissolved	mg/L	1/Month ³	Grab	0.00008
Chromium, dissolved	mg/L	1/Quarter ⁴	Grab	0.001
Copper, dissolved	mg/L	1/Month ³	Grab	0.001
Iron, dissolved	mg/L	1/Month ³	Grab	0.050
Lead, dissolved	mg/L	1/Month ³	Grab	0.0005
Mercury, dissolved	mg/L	1/Quarter ⁴	Grab	0.00001
Nickel, dissolved	mg/L	1/Quarter ⁴	Grab	0.010
Selenium, dissolved	mg/L	1/Quarter ⁴	Grab	0.001
Silver, dissolved	mg/L	1/Quarter ⁴	Grab	0.0005
Thallium, dissolved	mg/L	1/Quarter ⁴	Grab	0.0002
Zinc, dissolved	mg/L	1/Month ³	Grab	0.010

Footnotes:

1. See Definitions section at end of permit for explanation of terms.
2. The Required Reporting Value (RRV) is the detection level that must be achieved in reporting ground water monitoring or compliance data to the Department. The RRV is the Department's best determination of a level of analysis that can be achieved by the majority of the commercial, university, or governmental laboratories using EPA approved methods or methods approved by the Department. PQL (Practical Quantification Limits) are not acceptable substitutions for RRV.
3. During mill operation, the required monitoring frequency is monthly; during periods of shutdown, the required monitoring frequency is annually.
4. During mill operation, the required monitoring frequency is quarterly; during periods of shutdown, the required monitoring frequency is annually.

D. Special Conditions

1. Response Ground Water Monitoring:

If a ground water quality sample result from any monitoring well is in exceedance of a water quality standard, as given for a parameter(s) in Table 1 of this permit, the permittee is required to re-sample the well(s) within 72

hours of receiving laboratory results and notify the Department within 24 hours of receiving the results of the conformational sampling.

Based on the re-sample results, the Department may direct the permittee to implement one or more contingency measures. Said measures could include, but are not necessarily limited to:

- a. In coordination with the Department, review water quality trends, discharge data, and other site activities to identify the probable cause and extent of the water quality changes;
- b. Increase sampling (frequency and/or constituents);
- c. Installation of additional ground water monitoring wells, including upgradient wells;
- d. Installation of additional treatment to the tailings slurry and/or other wastewater streams used during milling prior to wastewater disposal to lower the exceeded parameter concentration(s);
- e. Suspension of all milling operations until the cause of the exceedance(s) has been determined, remediation measures taken, and/or measures implemented to prevent a reoccurrence;
- f. Supply drinking water to residences, business and irrigation districts located downgradient of mill site; and/or
- g. Implement other measures as determined by the Department, which may include invoking provisions set forth in Part IV. Section O of the renewed permit.

2. Monitoring Well Installation

By **October, 1, 2010**, the permittee will complete a replacement well for the non-functioning west well. Monitoring for the parameters and at the frequencies stated in Table 2 will begin immediately after installation and continue through the duration of the permit.

The monitoring well must be sited near (50 feet) the existing west well and on the perceived mixing zone boundary (150 feet from the tailings impoundment). The wells must be on permittee property and always accessible to assure continued accessibility for monitoring purposes.

The wells must be completed in the top 15 feet of the first ground water-bearing zone and shall be screened from the top of the high water table to 15 feet below the low water table.

All monitoring wells shall be installed by a licensed monitoring well constructor. Completed well logs shall be retained by the permittee and submitted to the Department upon well completion.

By **October 28, 2010**, the applicant must submit a written report to the Water Protection Bureau that documents the completion of the installation/rehabilitation.

3. Standard Operating Procedures (SOP) and Sampling and Analysis Plan (SAP):

By **October 1, 2010**, the permittee shall develop and maintain a copy of a Standard Operating Procedure (SOP) and Sampling and Analysis Plan (SAP) to address ground water monitoring. At a minimum, the SOP and SAP should address: well purging; equipment and procedures used for sample collection or field parameter measurement; sample collection, specifying sampling equipment and procedures; equipment decontamination procedures and storage; sample preservation and storage; and transportation to lab.

By **October 28, 2010**, the applicant must submit a written report to the Water Protection Bureau that documents the preparation and implementation of the SOP and SAP. Copies of the SOP and SAP do not need to be submitted to the Department by the required report date, but a copy of the SOP and SAP must be maintained on-site.

4. Other:

- a. All topsoil must be salvaged from disturbed areas and stockpiled for use during reclamation.
- b. Upon termination of the operation, the impoundment must be reclaimed by recontouring and crowning the material in such a way as to promote positive runoff. The impoundment must be covered with a minimum of two (2) feet of soil material and revegetated. O.T. Mining may request a change in this requirement if it can be documented by a qualified soil scientist with data submitted to a qualified laboratory that the tailings in the impoundment at the end of the impoundment life will not adversely affect revegetation efforts. Monitoring shall also verify that the entire site meets state and federal soil standards for human health and environmental protection.

- c. A minimum of two (2) feet of freeboard must be maintained in the impoundment at all times.
- d. Tailings impoundment dikes must be maintained to prevent erosion and transport of materials off the property of the permittee or into state waters.
- e. Tailings impoundment dikes must be revegetated concurrent with tailings disposal.
- f. Best management practices (BMPs) shall be utilized to control fugitive dust emissions from the facility. The following BMPs are examples of what may be required on wind erosive sites: watering, temporary seeding, topsoiling and revegetation, wind breaks, chemical amendments, soil amendments and/or stabilization fabric.
- g. Best management practices (BMPs) shall be utilized to control sedimentation and erosion. These include berms to prevent surface run-on and runoff from ore stockpiles and all other process materials.
- h. All spills of process solutions must be immediately reported to the Department.
- i. Reclamation must be monitored and a report submitted yearly to the Department for a period of two years following cessation of operations. The report must be submitted in writing for each calendar year and must be received by the Department no later than March 15th of the year following the report period. . Responsibility for reclamation success shall remain with the company until such time that the Department agrees in writing that the reclamation is complete.
- j. The reclaimed areas must be reseeded, stabilized, and irrigated, if necessary, upon the request of the Department. The Department may release O. T. Mining from this reclamation monitoring responsibility at an earlier date upon review of the reclamation success.

E. Reporting Schedule

The following table is a summary of reporting requirements stated in this part (Part I) of the permit. Refer to the specific permit section for additional submittal requirements and specific information.

Submittal Date ¹	Frequency	Required Item	Permit Section
28 th day of the month following each completed monitoring period	1/Quarter	Monitoring well water quality	Part. I. C
October 28, 2010	Single event	Report monitoring well installation/rehabilitation	Part I.D.2
	Single event	Report completion of development and implementation of an SOB and SAP.	Part I.D.3
1. Specific dates shown are for Special Conditions and/or Compliance Schedule Items. 2. Quarterly monitoring shall commence with the first full calendar quarter following permit effective date.			

II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Representative Sampling

Samples taken in compliance with the monitoring requirements established under Part I of the 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 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 monthly. Monitoring results obtained during the previous monitoring period shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, "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.

F. Additional Monitoring by the Permittee

If the permittee monitors 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 calculation 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 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) 841-3911. The following examples are considered serious incidents:
 - a. Any noncompliance which may seriously endanger health or the environment;
 - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part III.G of this permit, "Bypass of Treatment Facilities");
 - c. Any upset which exceeds any effluent limitation in the permit (See Part III.H of this permit, "Upset Conditions").
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 or 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(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 permit conditions on Part III.G of this permit, "Bypass of Treatment Facilities" and Part III.H of this permit, "Upset Conditions", 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, sludges, 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 judgement 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 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 an 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 an additional assessment consisting of 15% of the fee plus interest on the required fee computed at the rate established under 15-31-510(3), MCA, or
2. Suspend the processing of the application for a permit or authorization or, if the nonpayment involves an annual permit fee, suspend the permit, certificate 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.
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 fecal coliform 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 fecal coliform bacteria. The calendar month shall be used for purposes of reporting self-monitoring data.
2. **"Bypass"** means the intentional diversion of waste streams from any portion of a treatment facility.
3. **"Composite samples"** shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:
 - a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
 - b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
 - c. Constant sample volume, time interval between samples proportional to flow (i.e. sample taken every "X" gallons of flow); and,
 - d. Continuous collection of sample, with sample collection rate proportional to flow rate.
4. **"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.
5. **"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.
6. **"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.

7. **"Department"** means the Montana Department of Environmental Quality.
8. **"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.
9. **"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.
10. **"Instantaneous"** measurement, for monitoring requirements, means a single reading, observation, or measurement.
11. **"Load Limits"** are mass-based discharge limits expressed in units such as lb/day
12. **"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.
13. **"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.
14. **"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.
15. **"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.
16. **"TSS"** means the pollutant parameter total suspended solids.