

**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.*,

One Horse Acres, LLC

is authorized to discharge from its **One Horse Estates Sewer System** to its sub-surface disposal system,

located at **Township 10N, Range 20W, Sections 14 and 15, Ravalli 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 and serve to define a standard ground water mixing zone for receiving water.

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

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

FOR THE MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY

signature

Jenny Chambers, Chief
Water Protection Bureau
Permitting & Compliance Division

Modified Date: July 7, 2010

COPY

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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 MPDES 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:** After treatment, at the dose tank to the elevated sand mound, located at N 46° 37' 30" latitude, W 114° 05' 30" longitude.

Mixing Zone: The Department has granted a standard ground water mixing zone for nitrate as nitrogen (N) extending from the source 500 feet in a N 80° E direction.

Treatment Works: AdvanTex AX100, maximum effluent discharge rate is 21,000 gallons per day (gpd)

B. Effluent Limitations

Outfall 001

Effective immediately and lasting through the term of the permit, the quality of effluent discharged by the facility shall, as a minimum, meet the limitations as set forth in Table 1 of this permit:

Table 1: Effluent Limitations: Outfall 001			
Parameter	Units	Daily Maximum ⁽¹⁾	90-Day Average Load ⁽¹⁾ (pounds per day)
Total Nitrogen as N	mg/L	26	NA
Footnotes: 1. See definitions, Part V of the permit NA = Not Applicable			

Other Conditions

The effluent flow rate of wastewater discharged treatment system to Outfall 001 shall not exceed 21,000 gallons per day (gpd), based on the design daily maximum.

C. Self-Monitoring Requirements

1. Outfall 001

As a minimum, upon the effective date of this permit, the following constituents (Table 2) shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. 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.

To assess discharge flow rate, flow measuring equipment shall be installed immediately following the dose tank and prior to a discharge to the drainfield and must be capable of measuring continuous flow. The measurement method shall be either by recorder or a totalizing flow meter dose counts or pump run-times will not be accepted.

Samples representative of effluent quality will be collected at the dose tank prior to discharge to the elevated sand mound.

The reporting period for the parameters in Table 2 is quarterly.

Table 2: Effluent Monitoring Requirements			
Parameter	Unit	Sample Frequency	Sample Type ¹
Flow	gpd	Continuous	Instantaneous ²
pH	s.u.	1/Quarter	Instantaneous
Specific Conductivity	μS/cm	1/Quarter	Instantaneous
5-Day Biological Oxygen Demand (BOD ₅)	mg/L	1/Quarter	Composite
Total Suspended Solids (TSS)	mg/L	1/Quarter	Composite
<i>E. coli</i>	cfu/100ml	1/Quarter	Grab
Oil and Grease ³	mg/L	1/Quarter	Grab
Total Ammonia, as N	mg/L	1/Quarter	Composite
Nitrate + Nitrite, as N	mg/L	1/Quarter	Composite
Kjeldahl Nitrogen, Total, as N	mg/L	1/Quarter	Composite
Total Nitrogen, as N ⁴	mg/L	1/Quarter	Composite
	lbs/day	1/Quarter	Calculated
Total Phosphorus, as P	mg/L	1/Quarter	Composite
	lbs/day	1/Quarter	Calculated

Footnotes:
 1. See Definition section at end of permit for explanation of terms.
 2. Requires recording device or totalizer; permittee shall report daily maximum and daily average flow on DMR.
 3. Use EPA Method 1664, Revision A: N-Hexane Extractable Material (HEM), or equivalent.
 4. Calculated as the sum of Nitrate + Nitrite (as N) and Total Kjeldahl Nitrogen (as N) concentrations.

Load Calculations

In addition to reporting the concentration values, the quarterly loads expressed in lbs/day must be calculated and reported for total nitrogen and total phosphorus. The load calculations shall use the daily flow rate measured during the same 24 hour period that analytical samples are collected:

$$\text{Load (lb/day)} = \text{Parameter Concentration (mg/l)} \times \text{Flow Rate (gpd)} \times (8.34 \times 10^{-6})$$

2. Ground Water Monitoring:

Upon installation of the ground water monitoring well(s) and lasting through the term of the permit; the permittee shall monitor the ground water in the monitoring well(s) for the parameters and frequency specified in Table 3.

Samples or measurements shall be representative of the ground water from the monitoring well(s). Quarterly reporting for the constituents in Table 3 is required.

Table 3: Monitoring Parameters for Monitoring Wells			
Parameter	Unit	Frequency	Sample Type ⁽¹⁾
Static Water Level (SWL; feet below top of casing)	Feet	Quarterly	Instantaneous
Specific Conductance	µS/cm	Quarterly	Instantaneous
Chloride	mg/L	Quarterly	Grab
<i>E. Coli</i> Bacteria	cfu/100 mL	Quarterly	Grab
Total Ammonia, as N	mg/L	Quarterly	Grab
Nitrate + Nitrite as N	mg/L	Quarterly	Grab
Total Nitrogen	mg/L	Quarterly	Grab
Total Phosphorus, as P	mg/L	Quarterly	Grab
Footnotes			
1. See definitions, Part V. of this permit			

D. Special Conditions

1. Prohibitions:

The permittee shall not allow any user to introduce into the treatment works any wastes other than domestic in nature.

2. Monitoring Well Installation

- a. **By March 1, 2011**, the permittee shall submit to the Department for approval, a plan for installation of the ground water monitoring wells. The plan is to include the location, conceptual design and construction methods of the planned ground water monitoring wells.
- b. **Six (6) months prior to drainfield installation**, the permittee must install and monitor a minimum of one (1) monitoring well at the end of the 500 foot standard mixing zone. The monitoring well(s) shall be aligned to represent ground water quality across the entire width of the downgradient boundary of the mixing zone. The monitoring well(s) must be on subdivision property and always accessible to wastewater personnel.

These well(s) 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.

c. **Prior to drainfield installation**, the permittee shall submit to the Department a brief report or letter documenting the results of the monitoring well installation including the final location of the installed monitoring well(s), construction details for the well(s) and laboratory analytical reports. Ground water quality analytical reports shall include baseline water quality for each individual monitoring well, at a minimum, include the parameters listed in Table 3. Ground water quality monitoring shall begin upon installation of the monitoring wells and continue on a quarterly basis though the duration of the permit.

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

The permittee shall develop, maintain, and implement procedures documented in 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. The SOP and SAP are live documents that should be updated as the permittee deems necessary. Updates are not required to be submitted to the Department.

Six (6) months prior to drainfield installation, the permittee must submit a letter to the Department that documents that the SOP and SAP has been developed. The permittee is required to implement and maintain the SOP and SAP through the term of this permit.

4. Response Ground Water Monitoring:

If a ground water quality sample result from the monitoring well is in exceedance of a water quality standard, as represented as trigger value(s) given for a given parameter(s) in Table 4 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.

Table 4: Ground Water Nonsignificance Criteria ¹		
Parameter	Units	Value
Nitrate as N	mg/L	7.5
<i>E. coli</i> Bacteria	CFU/100 mL	1 or greater
1. For an activity to be considered nonsignificant, it must meet the requirements of ARM 17.30.715		

Based on the re-sample results, the Department may direct the permittee to implement one or more contingency measures. Said measures could include, but not 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. Install additional ground water monitoring wells, including an upgradient well.
- d. Install additional disinfection to the effluent prior to discharge into the subsurface drainfield to lower concentrations of the E-coli bacteria, if that was the parameter that exceeded compliance limits.
- e. Suspend any additional connections to the wastewater system until the cause of the exceedance(s) has been determined, remediation measures taken, and measures implemented to prevent a reoccurrence.
- f. Supply drinking water to residences, business and irrigation districts located downgradient of the mixing zone.
- g. Implement other measures as determined by the Department, which may include invoking provisions set forth in Part IV. Section O. of this permit.

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	Effluent quality – Outfall 001	Part I.C.1
	1/Quarter	Monitoring well ground water quality	Part I.C.2
March 1, 2011	Single event	Submit plan for monitoring well installation.	Part I.D.2
Six (6) months prior to drainfield installation	Single event	Monitoring Well installation	Part I.D.2
	Single event	Letter documenting development of an SOP and SAP	Part I.D.3
	Single event	Maintain and implement an SOP and SAP	Part I.D.3
Prior to drainfield installation	Single event	Letter documenting monitoring well installation and ground water quality	Part I.D.2
1. Submittal dates shown are for Special Conditions and/or Compliance Schedule Items.			

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 quarterly. 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 MGWPCS 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 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.

H. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with permit effluent limitations if the requirements of Part III.H.2 of this permit are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with permit effluent limitations).
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under Part II.I of this permit, "Twenty-four Hour Notice of Noncompliance Reporting"; and
 - d. The permittee complied with any remedial measures required under Part III.D of this permit, "Duty to Mitigate".
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

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
Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department and the EPA. As required by the Clean Water Act, permit applications, permits and effluent data shall not be considered confidential.
- J. Oil and Hazardous Substance Liability
Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.
- K. Property or Water Rights
The issuance of this permit does not convey any property or water rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. Severability
The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- M. Transfers
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 20% of the fee plus interest on the required fee computed at the rate established under 15-1-216(4), 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 outside, excluding mixing zones as designated by ARM 17.30.501-17.30-518, are exceeded for parameters included in the permit, the department may modify the effluent limits or water management plan.
3. TMDL or Wasteload Allocation: TMDL requirements or a wasteload allocation is developed and approved by the Department and/or EPA for incorporation in this permit.
4. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.
5. Sewage Sludge: There have been substantial changes (or such changes are planned) in sludge use or disposal practices; applicable management practices or numerical limitations for pollutants in sludge have been promulgated which

are more stringent than the requirements in this permit; and/or it has been determined that the permittee's sludge use or disposal practices do not comply with existing applicable state or federal regulations.

P. Biosolids

Sewage sludge (which is not landfilled in accordance with solid waste regulation at 40 CFR part 258) must meet all applicable requirements for disposing of sludge through land application or surface disposal site at 40 CFR Part 503. The regulations are administered by the U.S. Environmental Protection Agency.

Implementation of other measures, as determined by the Department, may include invoking the permit conditions set forth in Part IV. O. "Reopener Provisions".

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. **"90-day (and quarterly) average"** other than for fecal coliform bacteria means the arithmetic average of all samples collected during a consecutive 90-day period or 3 calendar months, whichever is applicable. Geometric means shall be calculated for fecal coliform bacteria. The calendar quarter shall be used for purposes of reporting self-monitoring data.
3. **"90-day Average Load"** means the arithmetic mean of all 90-day or quarterly average loads reported during a calendar quarter for a monitored period.
4. **"Act"** refers to the Montana Water Quality Act codified at 75-5, MCA.
5. **"BOD₅"** means the five-day measure of pollutant parameter biochemical oxygen demand.
6. **"Bypass"** means the intentional diversion of waste streams from any portion of a treatment facility.
7. **"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.

8. **"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.
9. **"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.
10. **"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.
11. **"Department"** means the Montana Department of Environmental Quality.
12. **"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.
13. **"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.
14. **"Instantaneous"** measurement, for monitoring requirements, means a single reading, observation, or measurement.
15. **"Load Limits"** are mass-based discharge limits expressed in units such as lb/day
16. **"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.
17. **"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.

18. "**Semi-Annual Average**" means the arithmetic average of all samples collected during a consecutive 180-day period or six (6) calendar months, whichever is applicable.
19. "**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.
20. "**Sewage Sludge**" means any solid, semi-solid or liquid residue generated during the treatment of domestic sewage and/or a combination of domestic sewage and industrial waste of a liquid nature in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the incineration of sewage sludge or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.
21. "**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.
22. "**TSS**" means the pollutant parameter total suspended solids.

