

Multi-Sector General Permit

for

Storm Water Discharges Associated with Industrial Activity

MPDES Permit Number MTR000000

Response to Public Comment

The Montana Department of Environmental Quality (DEQ) issued Public Notice MT-17-26 on December 15, 2017. The Public Notice provided the tentative determination to issue a state-wide wastewater discharge permit renewal for the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity, under the Montana Pollutant Discharge Elimination System (MPDES) permit MTR000000. The notice included the draft Permit, Fact Sheet, draft Environmental Assessment (EA), and associated draft Permit forms.

The public notice required that all written comments be received or postmarked by January 17, 2018, in order to be considered in formulation of the final determination and issuance of the permit. DEQ held a public hearing on January 16, 2018, at the Metcalf Building in Helena, Montana. DEQ received the following sets of comments:

Public Commenter Name	Comment Source(s)	Comments
BNSF Railway Company (Edward Pettit, Manager Environmental Operations)	Email	1-11
Johns Manville (Brent Tracy, Senior Director and Associate General Counsel)	Email	12
Montana-Dakota Utilities Co. (Samantha J. Marshall, Environmental Scientist)	Email	13
Malmstrom Air Force Base (Cody A. Koontz, P.E., Environmental Engineer)	Email	14
City of Bozeman (Kyle Mehrens, Stormwater Program Coordinator)	Email / Letter	15-17
Treasure State Resources Association of Montana (Peggy Trenk, CAE, Executive Director)	Verbal	18
Montana Petroleum Association, Inc. (Alan Olson, Executive Director)	Verbal	19
Bentonite Performance Minerals LLC (Tyler Tetrault, Mineral Resource Coordinator)	Letter	20-21
Sibanye-Stillwater (Randy Weimer, Environmental Manager)	Letter	22-41
American Colloid Company (Jessica Baldwin, Environmental Specialist)	Letter	42-43

DEQ has considered these comments in preparation of the final permit and decision. A copy of the unabridged comments is available from DEQ upon request. A synopsis of the significant comments and DEQ's responses are included below. This Response to Comments is an addendum to and supersedes the Fact Sheet to the extent specific changes or clarifications are discussed herein. Not in response to received comments, DEQ has updated the final permit as follows: corrected typographical and grammatical errors in the final permit. The aforementioned updates are insubstantial and do not change the intent of provisions in the final permit.

BNSF Railway Company - Edward Pettit

Comment #1: Part 2.2.8 Employee training (Page 16) – The sentence does not identify an action to be taken by the SWPPP Administrator. Suggested revision provided.

Response #1: DEQ agrees and further clarification has been added to Section 2.2.8 based on the provided suggested revision.

As provided for in Part 3.1.2 of this permit, the SWPPP Administrator must ensure appropriate training is provided for all employees who work in areas where industrial materials or activities are exposed to storm water, or who are responsible for implementing activities necessary to meet the conditions of this permit (e.g., inspectors, maintenance personnel), including all members of the storm water pollution prevention team.

Comment #2: Part 2.4 Self-Monitoring Requirements (Page 18) – Draft MSGP Reference... *(i)n accordance with Part 2.6, these results may trigger corrective action(s)*... appears to reference the wrong permit part. Corrective actions are included under Part 2.8 of the draft MSGP.

Response #2: DEQ agrees and has corrected the reference.

Comment #3: Part 2.8.3.1 Discovery Actions (Page 25) – The title for this part is referenced as 2.9.3.1, but should be 2.8.3.1.

Response #3: DEQ agrees and has corrected the reference.

Comment #4: Part 2.6.2.1.3 (Page 23) – Editorial change with suggested revision: *To determine is if a rainfall storm event is of 0.5 inches or greater, has occurred on site, either properly maintain a rain gage...*

Response #4: DEQ agrees and has updated the editorial change.

Comment #5: Part 2.6.2.1.3 Significant Storm Events Inspection Schedule (Page 23) – A “significant snowmelt event” is thawing conditions above freezing that causes visible runoff or drainage from snowmelt on the site. This definition was changed from the current version of the

permit which states “A ‘significant snowmelt’ event is thawing conditions above freezing which produce a storm water discharge and where visible and discernible erosion of sediment is occurring at the site.” The proposed definition could result in a facility being required to conduct four inspections on back-to-back days as temperatures warm above freezing during the day, and then drop below freezing again at night. This proposed change could require inspectors who cover multiple sites to remain at a given site for a full week to ensure that proposed permit requirements are being met. The definition should remain the same as in the current version in the permit. If the definition is modified, however, clarification language should be added to the MSGP to limit the requirement for “significant snowmelt events” to account for daily freeze/thaw cycles that are typical as temperatures change in the spring and fall (e.g., temperatures warm during the day resulting in thawing conditions that produce runoff, and then freeze again at night). Suggested revision provided: *A “significant snowmelt event” is thawing conditions above freezing that causes visible offsite runoff or drainage from snowmelt at the facility outfalls, and where temperatures remain above freezing for more than 24 hours... Within the same calendar quarter, only one “significant snowmelt event” inspection is minimally required if more than one “significant snowmelt event” occurs (on different days) during that same calendar quarter.*

Response #5: Self-inspections are a critical tool in evaluating BMP effectiveness, compliance with permit requirements, and triggering corrective actions to ensure protection of water quality from storm water discharges from the regulated industrial activities. DEQ revised the 2013 “significant snowmelt event” definition to be more protective of potential water quality impacts. If a visible and discernible erosion of sediment has already occurred to trigger a significant storm event inspection, then pollutants have potentially already been discharged. The revised definition provided a better opportunity for this self-inspection to be both preventative and reactive. DEQ appreciates the example scenarios based on the revised definition and suggested language. With consideration to BNSF comments, DEQ has clarified the definition to account for changing weather conditions and to inspect snowmelt events prior to potential discharge of pollutants.

A “significant snowmelt” event is thawing conditions above freezing which produce a visible runoff or drainage from snowmelt on the site where visible and discernible erosion of sediment is occurring at the site; or where temperatures remain above freezing for more than 24 hours.

Comment #6: Part 2.6.2.1.3 Significant Storm Events Inspection Schedule (Page 23) – In the draft MSGP, language has been removed from this part to use or credit a significant storm event inspection towards one of the routine inspections. As identified in MSGP Part 2.6.2.1.1, the procedures for completing routine facility and significant storm inspections are the same. As such, it makes sense to allow significant storm event inspections to count as a routine facility inspection, especially when considering that significant storm event inspections provide a greater benefit for identifying potential storm water related issues at a site due to the timing of the

inspections after significant rainfall or thawing. By removing the ability to count a significant storm event inspection as a routine facility inspection, the financial burden to comply with the MSGP has been increased for all permittees. *Suggested revision provided: Significant storm event inspections may be used and credited towards the quarterly routine facility inspections described in Part 2.6.2.1.2*

Response #6: While the procedures for completing the routine facility and significant storm inspections are the same, the two types of inspections are intentionally different methods of visual monitoring. The routine inspection provides an opportunity for a preventative, dry weather evaluation prior to pollutant mobilization and the significant storm event inspection provides an opportunity for a reactive, wet weather evaluation during potential pollutant mobilization in storm water discharges. The significant storm event inspection and routine inspection: (1) complement each other; (2) foster a comprehensive self-inspection program; and (3) strategically manage storm water from regulated industrial activities. Collectively, these inspections provide a greater benefit for identifying potential storm water related issues routinely before and after significant rainfall or thawing. However, DEQ recognizes the constraints associated with inspections and updated the 2018 MSGP to reinstate the 2013 permitting flexibility for potential annual credit. DEQ updated Part 2.6.2.1.2 as follows:

One routine facility inspection may be used or credited towards one of the significant storm event inspections if it meets the criteria in Part 2.6.2.1.3.

DEQ updated Part 2.6.2.1.3 as follows:

One significant storm event inspection may be used or credited towards one of the routine facility inspections as identified in Part 2.6.2.1.2.

Comment #7: Part 2.6.2.1.3 Significant Storm Events Inspection Schedule (Page 23) – In reference to “a weather service representative of the location”, the ability to use the closest rain gage available from an established weather service (e.g., NOAA, Weather Underground, etc.) should be added to the MSGP. Most facilities do not maintain rain gages on site, and having to contact a weather service representative could become problematic if they do not respond, potentially jeopardizing the ability for permittees to comply with the MSGP. Suggested revision provided.

Response #7: For clarification, “representative” was used as an adjective in the sentence to mean reflective or typical of the location; and not as a noun to reference a specific person. DEQ further clarified Part 2.6.2.1.3 as follows:

To determine if a rainfall storm event of 0.5 inches or greater has occurred on site, either properly maintain a rain gage on site or obtain the storm event information from a weather service provider that is representative of the location.

Comment #8: Part 2.8.3.2 Correction Schedule (Page 25) and Part 2.8.3.5 Corrective Action Reporting – Storm water best management practices (BMPs) are considered to be either an operational BMP or a structural BMP. While operational BMPs can typically be implemented immediately or within 14 days of discovery, structural BMPs require planning, design, capital budget allocations, and company approvals. The process for implementing a structural BMP often extends beyond 45 days, and setting an ultimate 45-day deadline for completing all corrective actions, including installing structural BMPs, is unreasonable and will result in permittees being out of compliance with the MSGP. Consideration must also be given to site-specific scenarios, such as accumulated snow depth or frozen ground conditions that may impact a permittee’s ability to implement BMPs within the proposed timeframe. The goal of corrective actions is to implement long-term storm water management strategies that are protective of storm water quality. Establishing an arbitrary 45-day deadline for all corrective actions to be completed, regardless of scope and complexity, will lead to the implementation of hastily planned corrective actions that may not be well-designed. This will result in permittees not being in compliance with the MSGP, and having to “redo” corrective actions that were hastily implemented to meet this ultimate 45-day corrective action deadline. Likewise, making repairs to certain types of equipment or controls could require ordering parts or include a large capital expense, which could reasonably be expected to require more than 45 days to complete. As such, the MSGP should be revised to clarify that the 14-day timeframe applies to operational BMPs, but structural BMPs that may be required to meet permit requirements can extend beyond this timeframe as long as the permittee develops a plan for completing the corrective action. Suggested revision provided for Part 2.8.3.2 Correction Schedule and Part 2.8.3.5 Corrective Action Reporting.

Response #8: The timeframes outlined in the Correction Schedule and Corrective Action Reporting include clear, specific, measurable, and enforceable requirements for corrective actions. DEQ disagrees that categories of structural BMPs should be permitted to have an open-ended corrective action completion date within the MSGP requirements. Regardless of conditions triggering the corrective action of a structural or operational BMP, DEQ recognizes that many factors may affect the remediation and elimination actions needed to complete a corrective action. DEQ has modified the permit language to reflect consideration of site-specific scenarios with permittee request and DEQ approval.

2.8.3.2 Correction Schedule

The permittee may request an extension beyond the 45-day timeframe. Such request must be received by the Department within 30 calendar days of the 45-day timeframe and subsequently approved by the Department.

2.8.3.5 Corrective Action Reporting

Within 14 calendar days of discovery of any condition listed in Parts 2.8.1 and 2.8.2, the permittee must document the following information:

- *Summary of corrective action taken or to be taken (or, rationale for triggering conditions identified in Part 2.8.2 where the permittee determines that corrective action is not necessary);*
- *If applicable, the expected timeframe of subsequent actions (as soon as possible up to 45 calendar days or as approved by the Department) required for the corrective action and the actual subsequent dates of completion;*

Comment #9: Part 2.9 Facility Recordkeeping Requirements (Page 27) – Clarification is needed on when required recordkeeping documents “must be brought to the facility site.” Suggested revision provided.

Response #9: DEQ agrees and further clarified Part 2.9 as follows:

For unmanned facilities or if no permanent offices/buildings are located at the facility site, copies of all required recordkeeping documents must be retained at either the office of the current contact person on file and/or at the office of the SWPPP Administrator, and must be brought to the facility site when conducting inspections required by this permit, and for any announced Department inspections or site visits. For manned facilities or sites with permanent offices/buildings, these documents are to be made available at the site immediately upon request from a Department official, or local official. These records are to be maintained by the permittee for a period of three years.

Comment #10: Part 3.13 Storm Water Pollution Prevention Team (Page 30) – Within BNSF and likely other permittees as well, Storm Water Pollution Prevention Team members come from different departments with complex organizational structures. For BNSF, the proposal requirement to include an organizational chart of the Storm Water Pollution Prevention Team members would involve multiple organizational charts to accurately portray the reporting/communication structure. The draft MSGP already requires that Storm Water Pollution Prevention members and responsibilities be identified, along the identifying the SWPPP Administrator with a listing of responsibilities under MSGP Part 3.12. The benefit of requiring an organizational chart to be included in the SWPPP is questionable, given that Storm

Water Pollution Prevention Team members and responsibilities are already identified in each SWPPP. Inclusion of organizational chart in the SWPPP should be removed from the draft MSGP, or should be identified as optional. Suggested language provided.

Response #10: Since industrial facilities differ in size and complexity, the outline of an organizational structure requires the permittee to assess and document the flow of authority, responsibility, accountability, and communication as related to the SWPPP. During the scoping of this permit, numerous industries and municipalities suggested identifying the organizational structure to depict relationships in the SWPPP team. The Storm Water Pollution Prevention Team organizational chart development is intended to be the systematic final outline of the requirements to:

- Identify the staff members (by name or title) including the SWPPP Administrator;
- Identify any specified individual responsibilities; and
- Document the formal mechanisms for communication and coordination between staff members (e.g. meetings, email updates, etc.) to ensure cooperation necessary to facilitate permit compliance and timely reporting.

DEQ has further clarified the language in Part 3.1.3 as follows:

The storm water pollution prevention team is responsible for assisting in developing and revising the facility's SWPPP as well as maintaining control measures and taking corrective actions where required. The permittee must document the following storm water pollution prevention team information:

- *Identify the staff members (by name or title) including the SWPPP Administrator;*
- *Identify any specified individual responsibilities;*
- *Document the formal mechanisms for communication and coordination between staff members (e.g. meetings, email updates, etc.) to ensure cooperation necessary to facilitate permit compliance and timely reporting; and*
- *Outline an organizational chart of the storm water pollution prevention team to, at a minimum, depict the members structural relationships.*

The permittee may include all required storm water pollution prevention team information in the organizational chart.

Comment #11: Part 1.2.2 Continuing Authorization Under the 2013 General Permit and the Notice of Intent Form Section D Existing or Pending Permits, Certifications, or Approvals – BNSF requests clarification regarding the applicability of the Montana Sage Grouse Habitat Conservation Program as it pertains to the renewal of the MSGP for existing permitted facilities (i.e., continuing authorization under the 2013 General Permit). Based upon review of the

application for the Montana sage grouse consultation and other applicable regulations/documentation, existing permitted facilities with no new surface disturbances or projects should not be required to complete a sage grouse consultation as part of the MSGP renewal process. Suggested language provided for the draft MSGP and draft NOI form.

Response #11: DEQ recognizes the commenter's concerns with the proposed changes regarding the Montana Sage Grouse Conservation Program (Program) consultation. The role of the Sage Grouse Habitat Conservation Program is to facilitate implementation of Executive Order 12-2015 (Order) across state government and with federal agency partners. The Order requires the Program to review all proposed activities in sage grouse habitats designated as a core area, general habitat, or a connectivity area. If the proposed activity will take place outside of these designated areas, Program review is not required. The Order applies to all programs and activities of state government, including permitting (DEQ's MPDES program and the issuance of the 2018 Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity), grant programs, and technical assistance. DEQ's MPDES permits are administered under the Montana Water Quality Act and are subject to the Order. The MSGP is a statewide general permit authorizing storm water discharges associated with industrial, mining, and oil and gas activity under 30 industrial sectors identified in the permit and further categorized into subsectors. Based on the complexity of each individual industrial facility authorized under the MSGP, permittees are required to confirm consultation applicability (including application of the Program's Conservation Strategy to Land Uses and Activities). Please contact Montana Sage Grouse Oversight Team if you would like to further discuss how BNSF industrial facilities and operations fall within the sage grouse consultation requirements. No changes were made to the permit in response to this comment.

Johns Manville (JM) - Brent Tracy

Comment #12 – JM's comments are specifically aimed at section 1.1.3, Allowable Non-Storm Water Discharges. JM recommends that any flushing of or discharge from potable water lines be included as an allowable non-storm water discharge. JM's Belgrade facility has fire department requirements to perform flow tests on the potable water line feeding its fire protection sprinkler system every six months. This is in every respect a potable water line flushing, a discharge that is similar in character, and potentially higher quality, than some of the allowed non-storm water discharges in proposed section 1.1.3, including landscape watering, pavement wash waters, and routine building external wash waters. Yet, it is not allowed under the proposed 1.1.3. Potable water line flushing or discharge is also almost certainly higher quality than other allowed non-storm water discharges, including windblown mists from cooling towers and discharges from emergency fire-fighting activities (Although JM certainly supports these remaining as allowed non-storm water discharges).

A number of other states allow discharges of potable water flushing or discharge under the general permit for industrial activity, including some states contiguous to Montana and within EPA Region 8. JM provided the following examples from other states:

- Wyoming’s Industrial General Permit for Stormwater (WYR000000)- definition of “related effluents” to including “potable water sources including waterline flushing” and pertinent pages in submitted Appendix A;
- North Dakota’s General Permit (NDR05-0000) – covers specified “non-stormwater discharges” that include fire hydrant flushing and potable water line flushing and pertinent pages in submitted Appendix B;
- Georgia’s Industrial General Permit (GAR050000) – that lists “potable water, including line flushing” and pertinent pages in submitted Appendix C; and
- Oregon’s General Stormwater Discharge Permit (Permit 1200-Z) – broadly lists “potable water, including water line flushing” and pertinent pages in submitted Appendix C.

Because potable water flushing or discharge is not an allowable non-storm water discharge in Montana’s current or proposed Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity, JM has had to shoehorn into a second general permit, the General permit for Disinfected Water and Hydrostatic Testing. Having two general permits requires double tracking, reporting, and monitoring, which is a cumbersome and inefficient prospect. And the disinfected water provisions in the General Permit for Disinfected Water and Hydrostatic Testing more appropriately apply to entities that control disinfection. JM is virtually at the mercy of the City of Belgrade Water Department for the chlorine content of its potable water, and thus the total residual chlorine content of the water flushed when it tests is fire line, when similar potable discharges allowed under the proposed permit, such as wash down water, don’t require a test. DEQ can easily rectify this by adding discharges of “potable water, including water line flushing” to its list of allowable non-storm water discharges when it finalized the proposed permit. JM strongly urges DEQ to do so.

Response #12: DEQ recognizes the commenter’s concerns with the programmatic efforts to maintain two separate MPDES General Permit authorizations for two different categories of regulated point source discharges. As JM has stated, total residual chlorine is a pollutant of concern when testing the Belgrade facility’s water line. Discharges of water from municipal water systems are eligible for coverage under the General Permit for Disinfected Water and Hydrostatic Testing (MTG770000). DEQ is not accepting or responding to comments on MTG770000. No changes will be made to the permit in response to this comment.

Samantha J. Marshall – Montana-Dakota Utilities Co.

Comment #13: Under a newly added Section 3.3 ‘SWPPP Availability,’ MDEQ proposes an option to require the current SWPPP or certain information from the current SWPPP to be made available to the public by either providing a URL in the NOI-SWI where the SWPPP can be found and maintained; and/or the Department may provide access to portions of the SWPPP to a member of the public upon request to MDEQ.

Montana-Dakota has concerns about potentially sensitive information being made publicly available for electric generating facilities per MDEQ’s proposal to make SWPPPs directly available to the public by URL. Utility facilities pose unique security concerns that go beyond the risks associated with their chemical processes. Because utility facilities, such as Lewis & Clark Station, are considered critical infrastructure for energy supply, we have serious concerns with making information available to the public on websites. Providing this information by URL will likely not improve regulatory compliance or assist in providing local communities with the true risks associated with regulated facilities as potential targets.

Montana-Dakota recommends MDEQ remove the option of requiring a URL for SWPPP availability to minimize the potential concerns listed above. While Section 3.3 language as written can be interpreted that a URL is not deemed specifically required, there is no understanding in the updated language of how that would be determined or whether a facility would be able to provide input to how MDEQ would determine which option is to be implemented in that new section. Montana-Dakota recognizes MDEQ as the environmental regulatory authority for storm water permit provisions and agrees with MDEQ making the SWPPPS available to the public upon request from the public as deemed appropriate.

Response #13: The purpose of the “SWPPP Availability” requirements is to provide greater awareness of potential public interest, requests, and participation of the MSGP and subsequent authorizations. To provide greater SWPPP access, DEQ updated the annual reporting requirements to include additional SWPPP information and permittee submission of annual reports. DEQ understands Montana-Dakota’s concerns regarding making information available to the public by URL. SWPPP availability through providing a URL is an optional requirement within the draft MSGP. DEQ outlined this voluntary option to provide awareness to permittees that a URL is a means of further engaging the public in their storm water pollution prevention efforts. DEQ did not intend the URL option to be a compliance-driven requirement. Also, please ensure any permittee confidential business information or restricted information is appropriately identified within the SWPPP and any additional documentation submitted to DEQ. Based on the comments provided, DEQ has clarified Part 3.3 as follows:

The permittee must retain a complete copy of the current SWPPP required by this permit at the facility in any accessible format. A complete SWPPP includes any documents incorporated by

reference and all documentation supporting the permit eligibility pursuant to Part 1.1 of this permit, as well as the signed and dated certification page. Regardless of the format, the SWPPP must be immediately available to the Department, or an authorized representative at the time of an onsite inspection. The current SWPPP or certain information from the current SWPPP must also be made available to the public (except any confidential business information or restricted information as identified by the permittee within the SWPPP) by:

- the Department providing access to portions of the SWPPP to a member of the public upon request. To remain current, the permittee must report a summary of any modifications or updates to the SWPPP (originally submitted with the NOI-SWI) with each required annual report. The Department may require submittal of a complete copy of the most current SWPPP at any time to make available to the public.*

Upon the permittee's convenience and discretion, the permittee may voluntarily provide a URL in the NOI-SWI where the SWPPP can be found, and voluntarily maintain the current SWPPP at this URL. SWPPP availability through a URL is not a permitting requirement. This voluntary option is a means of further engaging the public in the permittee's storm water pollution prevention efforts.

Malmstrom Air Force Base - Cody A. Koontz

Comment #14: Permit Part 2.6.2.1.4, bullet 16 states that the routine and storm event inspection documentation must include a signed and certified statement from the SWPPP Administrator.

The qualified inspectors are trained to the exact same standards as a SWPPP Administrator (minus permitting requirements) and should be able to solely sign the inspection forms. The SWPPP Administrator should not have to sign or certify each inspection form. This is the responsibility of the qualified inspector.

Also, neither the SWPPP Administrator nor the qualified inspector have the authority to certify documents to the extent in Part 4.18. In Malmstrom's case, the responsible official is the Wing Commander, the duly authorized person is the Civil Engineer Squadron Commander, and the SWPPP Administrator is typically an Environmental Engineer within the Civil Engineer Squadron. Part 4.18 only allows a certifying statement from the responsible official of duly authorized person.

Recommend deleting Part 2.6.2.1.4, bullet 16. The SWPPP Administrator can annually review the inspection documentation and include the results as part of the Annual Report that is signed and certified by the responsible official or duly authorized person.

Response #14: The core requirement of regulating storm water discharges through this General Permit is for permittees to develop, submit, implement, and maintain a Storm Water Pollution

Prevention Plan (SWPPP). The SWPPP is a document that must be developed and implemented in accordance with good engineering selection and design, industry standards, hydrologic principles, and pollution control practices to minimize and control potential pollutants in storm water associated with industrial activity and meet this permit's effluent limits. In coordination with the developed SWPPP, the General Permit requires (1) visual monitoring through inspections by qualified inspectors, and (2) necessary corrective actions triggered by specific conditions to ensure that this permit's effluent limits are met and pollutant discharges are minimized and corrected. Through this iterative and adaptive management approach for storm water permitting associated with industrial activities, the permittee consistently improves storm water quality. Overall, the SWPPP Administrator is the lead responsible person for ensuring the development, implementation, and maintenance of the SWPPP, and will serve as the primary contact person regarding the SWPPP. Based on the SWPPP being a core requirement to meet water quality standards and the SWPPP Administrator's role, the SWPPP Administrator is required to sign visual monitoring reports (i.e. routine facility and significant storm inspection documentation). This requirement ensures that the SWPPP Administrator is informed and involved consistently, and not on an annual basis. The SWPPP Administrator may also serve automatically as the role of a qualified inspector. DEQ intends for the SWPPP Administrator to be duly authorized to sign inspection documentation. Part 3.1.2 SWPPP Administrator has been clarified to include the following statement:

The SWPPP Administrator must meet the duly authorized representative requirements as defined by Part 4.18 of this permit to sign inspection reports and other reports.

Permit Part 2.6.2.1.4, bullet 16 has been clarified as follows:

A statement signed and certified in accordance with Part 4.18 of this permit or by the SWPPP Administrator.

Also, DEQ has updated the NOI-SWI form to simplify the process by including the option for the authorized representative to delegate signatory authority in accordance with Part 4.18.

Section K – Certification of the NOI-SWI has been updated as follows:

Duly Authorized Representative: Provide the following information to delegate authority to a duly authorized representative(s) to sign all reports required by the Department and other information requested by the Department as set forth in MSGP Part 4.18. The SWPPP Administrator must meet the duly authorized representative requirements.

SWPPP Administrator as identified in Section C above.

Name or Position Title: _____

Phone Number: _____ Email: _____

DEQ recognizes Malmstrom's specific concerns with identifying a duly authorized person based on your organizational structure. Part 4.18 provides permittees the flexibility to elect an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position. DEQ encourages open and frequent communication from Malmstrom regarding any questions or concerns with interpretation of qualifying individuals based on your specific organizational structure.

City of Bozeman - Kyle Mehrens

Comment #15: The Draft Multi-Sector General permit for Storm Water Discharges Associated with Industrial Activity (Draft Permit) is significantly more prescriptive than previous versions, requiring the City of Bozeman (City) to increase permit administration and documentation related to reports, inspections, training events, and guiding plans. Due to limited financial and Staff resources, this additional administrative burden will detract from the City's ability to protect water quality practically and effectively. Examples references provided for Section 2.1.1, 2.2, and 3.1.

Response #15: As stated in the Fact Sheet, DEQ "updated the non-numeric effluent limits language to maintain the flexibility to select and adaptively manage control measures that are the most effective for the specific facility or operation, but outlined clear and specific controls and practices to achieve these limits. These updates were based on the following generalized internal and external feedback... (1) better permitting and compliance direction on specific requirements; (2) to outline the requirements for specific BMP selection; and (3) more prescription on other specific requirements. More specifically, Part 2 requires the permittee to select, design, install, and implement control measures to meet non-numeric technology-based effluent limits and water quality based effluent limits. Part 2.1.1 outlines the minimum considerations for selection and design of all control measures. DEQ disagrees that providing minimum requirements for control measures selection and design considerations is "better suited in a guidance document or manual of best practices" because Part 2.1.1 establishes a minimum standard and still allows the permittee the flexibility to select and adaptively manage control measures that are the most effective for their specific facility/operation. DEQ disagrees that Part 2.2 is overly prescriptive and is "better suited in a guidance document or manual of best practices." Some control measures required in this Part are straightforward (as Bozeman has identified... closing dumpster lids, cleaning vehicles indoors, etc.) and are not intended to be documented with additional detail or selection of additional control measures. The permittee maintains the flexibility to reproduce certain requirements verbatim from the MSGP language, or select and adaptively manage control measures that are the most effective for their specific facility/operation. Also, per Part 2.1, if

alternative control measures are utilized based on your specific facility/operation to meet permit requirements, the City of Bozeman shall document such control measure(s) in your SWPPP and confirm rationale that the chosen measure achieves comparable criteria. No changes will be made to the permit in response to this comment.

Please see **Response #10** above as related to referenced example of Part 3.1.

Comment #16: The Draft Permit requires the City to update its existing SWPPPs in accordance with Section 1.2.2. The City requests that DEQ reconsider its SWPPP submittal requirements renewal timeline, considering the extensive nature of updates necessary under Section 3 and the short renewal timeline, allowing SWPPP updates before the completion of the first Annual Report, not upon NOI submission.

Response #16: DEQ recognizes the time crunch created by the issuance of the permit on January 31 and assures permittees it will remain flexible during the renewal timeline. Please coordinate your schedule with DEQ as you apply for renewal and update necessary elements. No changes will be made to the permit in response to this comment.

Comment #17: The City appreciates DEQ's prior willingness to engage stakeholders and maintain transparency when renewing discharge permits; however, the City notes that this Draft Permit did not allow a level of engagement provided during the MS4 and Construction General Permit renewal processes. The City would have appreciated being an active participant in this Draft Permit's development, and asks that DEQ involve them in future re-issuances, especially for discharge permits, such as this one, that require investment from City of Bozeman ratepayers.

Response #17: DEQ appreciates your support, active participation, and continued commitment to discharge permits reissuance process. DEQ will continue to work on our outreach efforts. For future reissuances, DEQ will ensure a higher level of engagement with stakeholders during the renewal process.

Treasure State Resources Association of Montana - Peggy Trenk

Comment #18: I would just like to call attention to has to do with the public availability of the SWPPP under 3.3. There's been some confusion from some folks that the new language in here is going to require folks to have a website or create a website if they don't have one and post the SWPPP on that. In discussion with the Department, I understand that is not required. But we encourage the Department to look at the language to clarify that that is not required, it's merely an option. We recognize that it is public information and the Department will have to provide that if it's requested, but that is not required to be posted on your own personal website.

Response #18: Please see **Response #13** above.

Montana Petroleum Association, Inc. - Alan Olson

Comment #19: My comments are verbatim of what Ms. Trenk just gave you, but I do have some suggested changes to the rule. There is a little unease of some of our members. We've got numerous people that don't have websites. But like Ms. Trenk said, thank you for your explanation of this in meetings past. And we do hope that maybe this (indicating) can kind of put some of our folks at ease.

Response #19: Please see **Response #13** above.

Bentonite Performance Minerals LLC - Tyler Tetrault

Comment #20: Section 1.2.2 (pg 10) "A copy of the consultation letter from the Montana Sage Grouse Habitat Conservation Program (if applicable)." The General Permit should more clearly state when a consultation letter is applicable. Industries requesting continuation of authorization through the NOI process, already maintained permit (2013-2018 General Permit) prior to the Executive Order (EO), therefore those industries previously holding coverage under the general permit would be grandfathered in per the EO language stated below and should not require consultation. EO 12-2015 (5) H23 citation provided. Additionally, requesting consultation letters for every company that holds a general permit in designated sage-grouse could further delay the issuance of the general permit due to overwhelming request for consultation letters.

Response #20: Consultation letters are part of the NOI-SWI package and would potentially delay submission of a complete NOI-SWI package for a permittee's authorization of coverage under the General Permit. Consultation letters will not delay the reissuance of the 2018 MSGP. Please contact MSGOT if you would like to further discuss how Bentonite Performance Minerals LLC industrial facilities and operations fall within the sage grouse consultation requirements. Please see **Response #11** above.

Comment #21: Previous Permit Section 1.2.3 (pg 9) Continuation of this Permit. The previous permit had a section (1.2.3) allowing administrative continuation of the permit if not reissued or replaced prior to the expiration date. This language was not seen in the permit draft. Please consider re-instating previous permit Section 1.2.3 Continuation of this Permit into the new draft permit, as it provides an administrative buffer for both the regulating agency and industries covered by this permit.

Response #21: DEQ shares Bentonite Performance Minerals LLC concern. The 2018 MSGP is issued before the current 2013 Permit expires. DEQ supports active and open communication with permittees regarding future permitting actions and will strive to have more lead time before expiration. No changes will be made to the permit in response to this comment.

Sibanye-Stillwater - Randy Weimer

Comment #22: In general, we find the proposed changes to the multi-sector general permit (MSGP) to be very burdensome to the permittee, when compared with the 2013 MSGP, and in opposition to the spirit of the Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs (Order #13771). We also find the proposed MSGP to be overly subjective and open to interpretation for both the permittee and the State. We encourage MDEQ to reconsider utilizing the proven concepts and requirements contained in the 2013 MSGP in reissuing of the proposed 2018 General Permit.

Response #22: The 2018 MSGP renewal builds upon the requirements set forth in the 2013 General Permit to maintain the flexibility to select and adaptively manage control measures that are the most effective for the specific facility or operation, but further outlines clear and specific controls and practices to achieve effluent limits and meet water quality standards. Because many permittees may find that their existing practices already meet the requirements of the 2018 MSGP, please work with DEQ to see if your current practices need to be amended to meet the 2018 MSGP. DEQ encourages permittees to take credit for work already done. No changes will be made to the permit in response to this comment.

Comment #23: Section 1.2.2- Continuing Authorization Under the 2013 General Permit – As stated, permittees requiring continuing authorization beyond the January 31, 2018 expiration date must submit a complete NOI-SWI package to the Department for coverage under the reissued 2018-2023 General Permit. Given the new requirements for contents of the NOI and SWPPP, we suggest permittees be given a minimum of 6-months following issuance of the 2018-2023 General Permit for submittal of the NOI-SWI Package.

Response #23: Please see **Response #16** above.

Comment #24: Section 1.2.2- Continuing Authorization Under the 2013 General Permit –We questions the applicability and legality of requiring sage grouse consultation as part of the MSGP. In our opinion, this type of consultation should be addressed within permitting requirements associated with land disturbance. We suggest this consultation requirement be removed from the MSGP.

Response #24: Please contact MSGOT to discuss if Sibanye-Stillwater the sage grouse consultation requirements have been met through other permitting actions. Please see **Response #11** above.

Comment #25: Section 2.2.1 – Minimize Exposure – The proposed MSGP requires that the permittee drain fluids from equipment and vehicles prior to on-site storage or disposal. Sibanye-Stillwater has equipment and vehicles stored onsite which are used periodically or act as back-

up/replacement units in the event of failure. We suggest that on-site storage be defined as used equipment or vehicles stored onsite in excess of 1-year without usage. We further suggest this requirement not apply to equipment and vehicles that are being stored within containment structures.

Response #25: The permittee has the flexibility to select and adaptively manage control measures to minimize exposure based on current or future industrial activities and their facility-specific schedule of operations to meet permit limits. Per Part 2.1, if alternative control measures are utilized (as Sibanye-Stillwater has provided in their facility-specific example), please document such control measure(s) in your SWPPP and confirm rationale that the chosen measure achieves comparable criteria. Because many permittees may find that their existing practices already meet the requirements of the 2018 MSGP, please work with DEQ to see if your current specific facility/operation examples regarding measures meet the 2018 MSGP. No changes were made to the permit in response to this comment.

Comment #26: Section 2.2.2 – Good Housekeeping – The MSGP requires the permittee to perform good housekeeping including the requirement to sweep or vacuum at regular intervals or alternatively, wash down the area. Given the size and complexity of our operations, we do not believe this is a realistic expectation. Rather we focus on the cleanup of any spilled materials (if and when they occur) to prevent stormwater contamination.

Response #26: The permittee has the flexibility to select and adaptively manage control measures to perform good housekeeping measures (i.e. ultimately keep clean and orderly all exposed areas that are potential sources of pollutants) based on current or future industrial activities and their facility-specific schedule of operations to meet permit limits. If alternative control measures are utilized (as Sibanye-Stillwater has provided in their facility-specific example), please document such control measure(s) in your SWPPP and confirm rationale that the chosen measure achieves comparable criteria. Because many permittees may find that their existing practices already meet the requirements of the 2018 MSGP, please work with DEQ to see if your current specific facility/operation examples regarding measures meet the 2018 MSGP. No changes were made to the permit in response to this comment.

Comment #27: Section 2.2.2 – Good Housekeeping – The proposed MSGP requires that all dumpster lids be closed when not in use. For dumpsters and roll-off boxes that do not have lids and could leak, ensure that discharges have a control (e.g. secondary containment). At our operations, solid waste dumpsters contain non-soluble, non-hazardous, non-putrescible general solid waste. We believe it is unreasonable to require solid covers or containment for all site dumpsters.

Response #27: See **Response #26**. Please work with DEQ to evaluate your dumpsters to see if they meet the overall intent of Good Housekeeping to protect water quality from storm water runoff. No changes were made to the permit in response to this comment.

Comment #28: Section 2.2.3 – Maintenance- In the fourth bullet, we suggest replacement of the word “immediately” with “timely”. Often, immediate repair is not achievable due to material or equipment availability.

Response #28: Section 2.2.3 refers permittees to Part 2.8 for options for more extended timelines. Part 2.8 was designed for the scenario where extra time is needed for maintenance. No changes were made to the permit in response to this comment.

Comment #29: Section 2.2.4 – Spill Prevention and Response Procedures – Please define what is considered a “complete” spill kit.

Response #29: A complete spill kit would be one that contains tools appropriate for the potential pollutants from industrial activities at the facility and the potential quantity of the leak, spill, or other release. No changes were made to the permit in response to this comment.

Comment #30: Section 2.2.4 – Spill Prevention and Response Procedures – Please define the requirement for “spill kits near areas where spills may occur”. Is this a possible distance from potential spill location or available within a certain amount of time?

Response #30: DEQ is allowing flexibility in its permit to allow for a reasonable location for the spill kit. Please work with DEQ when writing your SWPPP to come to a consensus on a rational place for the spill kit that meets the 2018 MSGP. No changes were made to the permit in response to this comment.

Comment #31: Section 2.2.4 – Spill Prevention and Response Procedures – Last bullet regarding notification, we suggest replacing the 2nd to last sentence with, “Spills and leaks must be reported in accordance with applicable Federal, State, and local regulations.”

Response #31: Federal and State regulations are what is meant when Section 2.2.4 refers to emergency response and regulatory agencies. No changes were made to the permit in response to this comment.

Comment #32: Section 2.6 – Inspection Program – We believe that a requirement to develop an “Inspection Program” is unnecessary and overly prescriptive. Although the previous permit required inspections, it was up to the permittee to fulfill this requirement based on site-specific and time-specific conditions during a given storm event. We recommend eliminating this requirement.

Response #32: The 2018 Inspection Program requirements include the fundamental 2013 MSGP requirements. DEQ has reformatted the 2018 MSGP and consolidated the annual comprehensive site inspection requirements into the routine facility inspection requirements. DEQ decided to generalize the inspections as an inspection program, but the elements are substantially similar to the previous permit. Please work with DEQ to see if your current inspection protocols meet the 2018 MSGP. No changes were made to the permit in response to this comment.

Comment #33: Section 2.6.2.1.3 -Significant Storm Events Inspection Schedule – We suggest the following wording... “In addition to the routine inspections, the permittee must conduct inspections during or after significant storm (rainfall or snowmelt events)”.

Response #33: DEQ reviewed this Part and the updated language to add “during”. Please be reminded that if an inspection is conducted “during” instead of “after” a storm event that the storm event must meet the definition of a significant storm event per Part 2.6.2.1.3. DEQ updated this Part as follows:

In addition to the routine inspections, the permittee must conduct inspections during or after significant storm (rainfall or snowmelt) events. Significant storm event inspections must be conducted within 72 hours of the end of a rainfall or snowmelt event or in the timeframe specified in Part 3.4 for the particular sector or subsector if specified.

Comment #34: Section 2.6.2.1.4 – Routine Facility and Significant Storm Event Inspection Documentation – It appears to us that the comprehensive inspection requirements, previously required annually, are now carried into the routine significant inspections. It was our understanding that the inspection requirements would be simplified. We suggest reverting to language contained in the 2013 MSGP relative to inspection documentation required for routine or significant storm events.

Response #34: Self-inspections are a critical tool in evaluating BMP effectiveness, compliance with permit requirements, and triggering corrective actions to ensure protection of water quality from storm water discharges from the regulated industrial activities. The 2018 General Permit consolidated the annual comprehensive site inspection requirements into the routine facility inspection requirements, so the permitted industrial facility or operation is holistically looking at ways to improve water quality at the facility scale. Please work with DEQ to see if your current inspection protocols meet the 2018 MSGP. No changes were made to the permit in response to this comment.

Comment #35: Section 2.8 – Corrective Actions – We suggest changing the language to “SWPPP Administrator or qualified inspector”.

Response #35: DEQ is finding in some organizations, there is a lack of quality control in what triggers corrective actions, and the corrective actions themselves. Having the corrective action overseen by a single contact helps alleviate those problems plus provides a more coordinated approach. No changes were made to the permit in response to this comment.

Comment #36: Section 2.8.1 – Conditions Requiring Review and Revision to Eliminate Problem – We suggest striking the last bullet point in this section. In our opinion, the term “visual assessment shows evidence of storm water pollution” is too subjective. These conditions must be based on a failure to comply with the approved SWPPP or a failure to meet applicable water quality standards.

Response #36: DEQ can understand why this seems like a subjective condition, but that is not the intent the condition. The intent of this condition is to help permittee avoid the time and cost of needlessly elaborate inspection protocols when a simple visual inspection will do. No changes were made to the permit in response to this comment.

Comment #37: Section 2.10.3 – Annual Report – We suggest that the requirement for an annual report be waived if the permittee has no storm water discharge to surface water during a calendar year.

Response #37: Besides providing information on discharges, the Annual Report provides the following important information: a summary of the past year’s routine facility inspections documentation; significant storm event inspection documentation; corrective actions performed; benchmark monitoring results; incidents of noncompliance observed; and required revisions to the SWPPP. Also, if the permit allows Annual Reports to be waived, DEQ will not know if a report was not filed because a permittee did not have a discharge or a permittee is out of compliance, but chose not to file a report. No changes were made to the permit in response to this comment.

Comment #38: Section 3.1.3 -Storm Water Pollution Prevention Team – We suggest removing the last bullet point... “Document the formal mechanisms for communication...”. This should be the responsibility of the permittee to manage onsite communication and ensure permit compliance.

Response #38: For clarification, a formal mechanism of communication could include, and not limited to, email, verbal, meetings (as needed), etc. DEQ agrees that the permittee is responsible for managing communication with the Storm Water Pollution Prevention Team and ensuring permit compliance. Please see **Response #10** above.

Comment #39: Section 3.1.10 – Pertaining to Inspection Program – See comment 2.6 above.

Response #39: Please see **Response #32** above.

Comment #40: Section 3.3 – SWPPP Availability- We do not believe it is our statutory responsibility to provide Public Access to the SWPPP via a URL site. We are more than happy to answer questions or address concerns posed by the Public and provide copies of certain materials on a case-by-case basis. We do, however, understand that the Department can and may make available to the Public the SWPPP or portions thereof and we are more than happy to support their efforts.

Response #40: Please see **Response #13** above.

Comment #41: 3.4.7.1 & 2 – Covered Storm Water Discharges – There appears to be some inconsistencies between what is listed as covered discharges in these sections and the Table 3.4. G-4 (e.g. fuel storage). We recommend this section be reviewed and compared with the referenced tables.

Response #41: Recommended MSGP parts and table were reviewed for inconsistencies. None were found. No changes were made to the permit in response to this comment.

American Colloid Company - Jessica Baldwin

Comment #42: Section 1.2.2 (pg 10) “A copy of the consultation letter from the Montana Sage Grouse Habitat Conservation Program (if applicable).” The General Permit should more clearly state when a consultation letter is applicable. Certain activities, such as sectors I and J are subject to additional State permits that require sage grouse consultations for NEW permits within designated sage grouse habitat. The mine permit application process for new permits will generate a consultation letter which should suffice as record of consultation. Additionally, those industries requesting continuation of authorization through the NOI process, already maintained permit (2013-2018 General Permit) prior to the Executive Order (EO), therefore those industries previously holding coverage under the general permit would be grandfathered in per the EO language stated below and should not require consultation. EO 12-2015 (5) H23 citation provided.

Response #42: Contact MSGOT if you would like to further discuss how American Colloid Company industrial facilities and operations fall within the sage grouse consultation requirements. Please see **Response #11** above.

Comment #43: Previous Permit Section 1.2.3 (pg 9) Continuation of this Permit. The previous permit had a section (1.2.3) allowing administrative continuation of the permit if not reissued or replaced prior to the expiration date. This language was not seen in the permit draft. Please

consider re-instating previous permit Section 1.2.3 Continuation of this Permit into the new draft permit, as it provides an administrative buffer for both the regulating agency and industries covered by this permit.

Response #43: Please see **Response #21** above.