

**MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

GENERAL PERMIT

For

CONSTRUCTION DEWATERING

Permit No.: MTG070000

AUTHORIZATION TO DISCHARGE UNDER THE
MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM

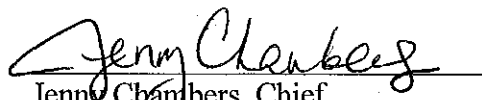
In compliance with Montana Water Quality Act, Title 75, Chapter 5, Montana Code Annotated (MCA), and the federal Water Pollution Control Act (the "Clean Water Act"), 33 U.S.C. 1251 *et. seq.*, applicants issued an authorization letter for this Construction Dewatering General Permit, are permitted to discharge wastewater to state waters in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

A copy of this General Permit and a written authorization letter from the Department must be kept on site at all times. The General Permit is not valid without a current authorization letter from the Department.

This permit shall become effective on **September 1, 2010**.

This permit and the authorization to discharge shall expire at midnight, **August 31, 2015**.

FOR THE MONTANA DEPARTMENT
OF ENVIRONMENTAL QUALITY


Jenny Chambers, Chief
Water Quality Bureau
Permitting and Compliance Division

Issuance Date: June 25, 2010

TABLE OF CONTENTS

I.	COVERAGE UNDER THIS GENERAL PERMIT.....	4
	A. COVERAGE AREA.....	4
	B. SOURCES COVERED UNDER THIS GENERAL PERMIT.....	4
	C. SOURCES EXCLUDED FROM COVERAGE UNDER THIS GENERAL PERMIT.....	4
	D. SOURCES COVERED UNDER THE 2005 GENERAL PERMIT – CONTINUING COVERAGE.....	5
	E. NEW SOURCES SEEKING COVERAGE UNDER THE 2010 GENERAL PERMIT.....	5
	F. TERMINATION OF PERMIT COVERAGE.....	5
	G. TRANSFER OF COVERAGE.....	6
II.	EFFLUENT LIMITATIONS, MONITORING REQUIREMENTS & OTHER CONDITIONS.	7
	A. SPECIFIC EFFLUENT LIMITATIONS.....	7
	B. SELF-MONITORING REQUIREMENTS.....	7
	C. SPECIAL CONDITIONS.....	8
	D. MIXING ZONE.....	9
III.	MONITORING, RECORDING AND REPORTING REQUIREMENTS.....	10
	A. REPORTING REQUIREMENTS.....	10
	B. MONITORING AND RECORDING OF RESULTS.....	10
	C. ADDITIONAL MONITORING BY PERMITTEE.....	10
	D. COMPLIANCE SCHEDULES.....	10
	E. RECORD RETENTION.....	10
	F. TWENTY-FOUR HOUR REPORTING.....	10
	G. OTHER NONCOMPLIANCE.....	11
	H. INSPECTION AND ENTRY.....	11
IV.	COMPLIANCE RESPONSIBILITIES.....	12
	A. DUTY TO COMPLY.....	12
	B. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS.....	12
	C. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE.....	12
	D. DUTY TO MITIGATE.....	12
	E. PROPER OPERATION AND MAINTENANCE.....	12
	F. BYPASS OF TREATMENT FACILITIES.....	13
	G. UPSET.....	14
	H. TOXIC POLLUTANTS.....	14
	I. CHANGES IN DISCHARGE OF TOXIC SUBSTANCES.....	14
V.	GENERAL REQUIREMENTS.....	16
	A. PLANNED CHANGES.....	16
	B. ANTICIPATED NONCOMPLIANCE.....	16
	C. PERMIT ACTIONS.....	16
	D. DUTY TO REAPPLY.....	16
	E. DUTY TO PROVIDE INFORMATION.....	16
	F. OTHER INFORMATION.....	16
	G. SIGNATORY REQUIREMENTS.....	16
	H. PENALTIES FOR FALSIFICATION OF REPORTS.....	17
	I. AVAILABILITY OF REPORTS.....	18
	J. OIL AND HAZARDOUS SUBSTANCE LIABILITY.....	18
	K. PROPERTY OR WATER RIGHTS.....	18
	L. SEVERABILITY.....	18

M. TRANSFERS	18
N. FEES	18
O. REOPENER PROVISIONS.....	19
VI. DEFINITIONS.....	20

I. COVERAGE UNDER THIS GENERAL PERMIT

A. Coverage Area

The Construction Dewatering General Permit (CDGP) applies to all areas of the State of Montana, except for Indian Reservations.

B. Sources Covered under this General Permit

This General Permit applies to construction dewatering discharges originating from dewatering of cofferdams, trenches, excavation pits or other excavations associated with construction where sediment-laden groundwater or surface water inflow may be discharged to state surface water. It also applies to sediment-laden water from well pump tests, well development, drill hole or pylon development when the discharged water may contain visible suspended and bed load sediment that must be settled out before discharge.

C. Sources Excluded from Coverage Under this General Permit.

1. The Department may deny a Construction Dewatering General Permit application for discharge under the general provisions of ARM 17.30.1341(4) for the following:
 - a) The specific source applying for authorization appears unable to comply with [ARM 17.30.1341(4)(a)]:
 - effluent limitations or other terms and conditions of the permit;
 - water quality standards established pursuant to 75-5-301, MCA; or
 - discharges that the regional administrator has objected to in writing.
 - b) The discharge is different in degree or nature from discharges reasonably expected from sources or activities within the category described in the General Permit [ARM 17.30.1341(4)(b)].
 - c) An MPDES permit or authorization for the same operation has previously been denied or revoked [ARM 17.30.1341(4)(c)].
 - d) The discharge to be authorized under a general MPDES permit is also included within an application or is subject to review under the Major Facility Siting Act, 75-20-101, et seq., MCA [ARM 17.30.1341(4)(d)].
 - e) The point source will be located in an area of unique ecological or recreational significance. Such determination must be based upon considerations of Montana stream classifications adopted under 75-5-301, MCA, impacts on fishery resources, local conditions at proposed discharge sites, and designations of wilderness areas under 16 USC 1132 or of wild and scenic rivers under 16 USC 1274 [ARM 17.30.1341(4)(e)].
2. Discharges under the CDGP are not allowed in A-1 or A-Closed classification waters because no increase above naturally occurring turbidity is allowed in these

water classifications [ARM 17.30.621(3) and 17.30.622(3)]. Construction dewatering discharge to these waters would require an individual MPDES permit.

D. Sources covered under the 2005 General Permit – Continuing Coverage.

The 2005 General Permit authorizations will expire upon the effective date of the new General Permit (2010 General Permit). Existing sources will be administratively continued until the Department issues a new letter of authorization to the permittee under the 2010 General Permit in conformance with one of the following:

1. The Department will automatically issue a new letter of authorization to any CDGP authorizations issued within 60 days prior to the effective date of the 2010 General Permit, if these facilities have not been terminated prior to the effective date, or
2. For any CDGP authorizations existing before 60 days prior to the effective date, the authorization will be renewed only if the permittee submits an appropriate renewal request for continued coverage under the 2010 General Permit, as specified by ARM 17.30.1341(4). The Department requires submittal of the complete application package by no later than 30 days prior to the effective date of the 2010 General Permit in order to ensure continued coverage. The renewal request includes submittal of a complete application package, consisting of:
 - Applicable Form [Form 2E – excluding Section K (Mixing Zone)]; and
 - Fee (renewal fee as specified under ARM 17.30.201).

Within 30 days from receipt of a complete renewal request, the Department will issue a new authorization letter (or denial) to these facilities under the 2010 General Permit.

E. New sources seeking coverage under the 2010 General Permit

New dischargers seeking to obtain coverage under the CDGP must submit a complete application package, including:

- Applicable Form [including Form 2E – excluding Section K (Mixing Zone)]; and
- Fee (includes both permit application fee and annual fee for first year under the 2010 General Permit) as required under ARM 17.30.201.

The complete package must be submitted at least 30 days prior to construction dewatering. The Department will issue a letter of authorization (or denial) to the owner or operator within 30 days after receiving a complete application package. If denied, the applicant may apply for an individual permit or modify the operation and re-apply for coverage under the General Permit and submit a new application fee.

F. Termination of Permit Coverage

Permit coverage remains in effect until the expiration date of the General Permit or the Department receives notice from the permittee that the point source discharge has been eliminated. The notice of termination must be signed and certified in accordance with the

signatory requirements in Part V.G of this General Permit and all applicable fees must be paid. Failure to submit a notice of termination shall result in accrual of annual fees until this notice is received by the Department.

In addition to the ability to request a termination, the owner or operator of a facility covered under this General Permit may request to be excluded from coverage under this General Permit by applying for and obtaining an individual MPDES permit pursuant to Title 17, Chapter 30, Subchapter 13. If an individual MPDES permit is issued to the owner or operator of the facility, coverage under this General Permit is terminated on the effective date of the final MPDES permit.

G. Transfer of Coverage

The Department may transfer a construction dewatering authorization to a new owner or operator in accordance with Part V.M. of this General Permit.

II. EFFLUENT LIMITATIONS, MONITORING REQUIREMENTS & OTHER CONDITIONS

A. Specific Effluent Limitations

During the period beginning immediately and lasting through the duration of the permit, the permittee is authorized to discharge from outfall(s) specified in the authorization letter at the following effluent limits:

1. **Turbidity.** A site-specific turbidity limitation in nephelometric turbidity units (NTU) will be calculated for each discharge and will be assigned in the permittee's authorization letter. The calculated discharge turbidity limitation is based on Equation A.

Equation A:

$$X = C_r + [(Q_s/Q_d) \times (C_r - C_s)]$$

X = turbidity limitation for effluent expressed in NTU

C_r = downstream concentration in NTU

Q_s = background stream flow - water low flow rate above point of discharge, in mgd or cfs

Q_d = maximum discharge flow rate in mgd or cfs (same units as Q_s)

C_s = background concentration in NTU

*Note: (C_r - C_s) is equivalent to the allowable increase in turbidity (Water Quality Standards, ARM 17.30 Subchapter 6)

2. **Oil & Grease.** No visible oil sheen or film.
3. **Floating solids or visible foam.** No floating solids or visible foam in other than trace amounts.

B. Self-Monitoring Requirements

The permittee will be responsible for conducting monitoring, recordkeeping and reporting during the life of their permit authorization. Discharge monitoring must take place at a point after the last point of control, before the discharge leaving the treatment system enters the receiving water. Samples and measurements must be representative of the volume and nature of the monitored discharge.

When more than one sample is analyzed in a month the arithmetic average must be calculated and reported on the discharge monitoring report (DMR). If no discharge occurs during the entire monitoring period, it shall be stated on the DMR form that no discharge or overflow occurred.

1. The permittee must conduct the following monitoring:
 - a. Short-term Discharge (First Week)

Monitoring Requirements				
Parameter	Unit	Sample Location	Sample Frequency	Sample Type ¹
Turbidity	NTU	Effluent	1/Day	Grab
Oil and grease	Visual	Effluent	1/Day	Visual ²
Footnotes: 1. See Definition section at end of permit for explanation of terms. 2. If a visual examination of the discharge indicates the presence of hydrocarbons, by sheen, odor or other sign, the permittee is required to cease discharge until the oil and grease is eliminated.				

- b. Long-term Discharge (Remainder of Project after First Week)

Monitoring Requirements				
Parameter	Unit	Sample Location	Sample Frequency	Sample Type ¹
Turbidity	NTU	Effluent	1/Week	Grab
Oil and grease	Visual	Effluent	1/Day	Visual ²
Footnotes: 1. See Definition section at end of permit for explanation of terms. 2. If a visual examination of the discharge indicates the presence of hydrocarbons, by sheen, odor or other sign, the permittee is required to cease discharge until the oil and grease is eliminated.				

2. Facilities regulated under this permit are required to maintain a daily monitoring log. The permittee must maintain these daily records for a period of at least three years and make these records available to the Department upon request. The daily records are considered a method for the permittee to ensure good operating practices as well to demonstrate compliance with the effluent limitations.
3. The daily information must be summarized and submitted to the Department on monthly DMR forms, in accordance with Part III.A. and B of this General Permit.

C. Special Conditions

The Department has determined that the Best Management Practices (BMPs) listed below, when properly implemented, are appropriate treatment methods for construction dewatering:

1. Prior to discharge the applicant must construct and operate a settling pond or other treatment, as necessary.
2. Excavated material must be transported and stockpiled in such a manner as to prevent its erosion returning to the receiving stream.

3. The permittee is required to minimize erosion to receiving water bed and banks through the use of flow dissipation devices such as rip rap, baffles or other methods, as necessary.
4. No chemicals, other than coagulants and/or flocculants used in conformance with manufacturer's recommendations, are to be added to or discharged with the construction dewatering effluent under this General Permit.
5. Precautionary measures are to be employed to prevent spilled or leaking fuels and lubricants from entering the watercourse.
6. If an oil sheen is observed in the discharge it must be eliminated before continuing the discharge.
7. Issuance of authorizations under this permit does not waive obligations to obtain other permits that may be required, e.g., Department of Environmental Quality Storm Water authorization, Montana Natural Streambed and Land Preservation Act (310) permit, the U.S. Corps of Engineers (404) permit or an operation permit from the U.S. National Forest Service, U.S. Bureau of Land Management, or U.S. Bureau of Reclamation. In addition, authorizations do not waive the responsibility for dredgers to comply with the federal Endangered Species Act and avoid "illegal take" of bull trout.

D. Mixing Zone

A mixing zone is established for turbidity and sediment. The length of the mixing zone shall extend downstream from the discharge location a distance of 10 times the stream width. The stream width must be measured at the discharge location. No mixing zone for oil and grease will be allowed because the water quality standard for oil and grease applies throughout the receiving stream.

III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Reporting Requirements

All monitoring data shall be reported on the supplied discharge monitoring report (DMR) forms and sent to the Department monthly (see address below), postmarked no later than the 28th day of the month following the reported month.

Montana Department of Environmental Quality
Water Protection Bureau
ICIS Coordinator
P.O. Box 200901
Helena, Montana 59620-0901
Phone: (406) 444-3080

B. Monitoring and Recording of Results

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.

C. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit the results of such monitoring shall be included in the monitoring report. Such increased frequency shall be indicated.

D. 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.

E. Record Retention

All records and information resulting from the monitoring activities required by this permit shall be retained for a minimum of three (3) years, or longer if requested by the Department.

F. Twenty-four Hour Reporting

1. The permittee shall report any serious incident of noncompliance which may endanger health or 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.
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.
 4. Reports shall be submitted to:

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

G. Other Noncompliance

Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part III.A of this permit are submitted. The reports shall contain the information listed in Part III.F.2.

H. Inspection and Entry

The permittee shall allow the head of the Department or the Regional Administrator, or an authorized representative, 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.

IV. 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 of such violation. Any person who willfully or negligently violates permit conditions of the Act is subject to a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than 2 years, or both. 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 IV.G of this permit, "Bypass of Treatment Facilities" and Part IV.H of this permit, "Upset", 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. 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 IV.G.2 and IV.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 ten (10) days before the date of the bypass.
 - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part III.F of this permit, "Twenty-four Hour Reporting."
3. Prohibition of bypass:
 - a. Bypass is prohibited and the Department may take enforcement action against a permittee for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The permittee submitted notices as required under Part IV.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 IV.G.3.a of this permit.

G. Upset

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part IV.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 technology-based 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 III.F of this permit, "Twenty-four Hour Notice of Noncompliance Reporting"; and
 - d. The permittee complied with any remedial measures required under Part IV.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.

H. Toxic Pollutants

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

I. Changes in Discharge of Toxic Substances

Notification shall be provided to the Department as soon as the permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 $\mu\text{g/l}$);
 - b. Two hundred micrograms per liter (200 $\mu\text{g/l}$) for acrolein and acrylonitrile; five hundred micrograms per liter (500 $\mu\text{g/l}$) for 2,4-

- dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,
 - d. The level established by the Department in accordance with 40 CFR 122.44(f).
2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- a. Five hundred micrograms per liter (500 $\mu\text{g/l}$);
 - b. One milligram per liter (1 mg/l) for antimony;
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,
 - d. The level established by the Department in accordance with 40 CFR 122.44(f).

V. 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 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.

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 modified, revoked 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 the permit, the permittee must apply for and obtain a new 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 modifying, revoking 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.

G. Signatory Requirements

All applications, reports or information submitted to the Department shall be signed and certified.

1. All permit applications shall be signed as follows:

- a. For a corporation: by a responsible corporate officer;
- b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;

- c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is considered a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Department, and,
 - b. The authorization specified either 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 any individual occupying a named position.)
 3. Changes to authorization. If an authorization under Part V.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 V.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. 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

Permit coverage is not transferable to any person except after notice is given to the Department and a transfer fee is paid. Notice of transfer must be completed on the form provided by the Department and must be received by the Department at least 30 days prior to the anticipated date of transfer. The form must be signed by both the existing owner/operator and the new owner/operator following the signatory requirements of Part V.G of this General Permit.

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 payment, the Department may:

1. Impose an additional fee assessment plus interest computed at the rate established under ARM 17.30.201, 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, license or other authorization for which the fee is required. The Department may lift the 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 subsection.

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. **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.
3. **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.
4. **Toxic Pollutants:** A toxic standard or prohibition is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit.
5. The permittee must take the necessary preventive measures to ensure that the discharge does not cause erosion in the area of operation or of the bank and bed of the receiving stream.
6. There shall be no discharge of any wastewater except wastewater resulting from dewatering of groundwater and/or surface water from construction sites.

VI. DEFINITIONS

1. “**Act**” means the Montana Water Quality Act, Title 75, Chapter 5, MCA.
2. “**Administrator**” means the administrator of the United States Environmental Protection Agency.
3. “**Department**” means the Montana Department of Environmental Quality (MDEQ).
4. “**Director**” means the Director of the Montana Department of Environmental Quality.
5. “**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.
6. “**Federal Clean Water Act**” means the federal legislation at 33 USC 1251, *et seq.*
7. A “**grab**” sample, for monitoring requirements, is defined as a single “dip and take” sample collected at a representative point in the discharge stream.
8. An “**instantaneous**” measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
9. A “**mixing zone**” means a limited area of a surface water body or aquifer where initial dilution of a discharge takes place and where water quality changes may occur. Also recognized as an area where certain water quality standards may be exceeded.
10. “**Non-degradation**” 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.
11. “**Receiving stream**” means the river, stream, or creek, which receives the wastewater discharge from the construction activity.
12. “**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.
13. “**Turbidity**” means a measure of the clarity of a particular water sample. It expresses the tendency of the sample to scatter or absorb light owing to the presence of sediment, suspended particulate matter, such as silt, or other finely divided organic or inorganic matter. Turbidity is measured in nephelometric turbidity units (NTU).
14. The “**receiving stream**” means the river, stream, or creek, which receives the wastewater discharge from the construction activity.
15. A “**visual observation**” means an examination of the discharge for the presence of hydrocarbons, sheen, odor or other sign.