

**MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

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.*,

RC Resources, Inc.

is authorized to discharge from its **Rock Creek Mine**

located at **Township 27N, Range 32W, Sections 26, 27, 34, and 35; and
Township 26N, Range 32W, Sections 3, 10, 15, 22, 23, 27, 28, 29, 32, and 33
Latitude: 48° 01' 39" N, Longitude: 115° 42' 15" W**


to receiving waters named, **Unnamed Tributary to Miller Gulch, Rock Creek, and Unnamed
Tributary to West Fork Rock Creek**

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein. Authorization for discharge is limited to those outfalls specifically listed in the permit.

This permit shall become effective: **February 1, 2016.**

This permit and the authorization to discharge shall expire at midnight, **January 31, 2021.**

FOR THE MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY



Jon Kenning, Chief
Water Protection Bureau

Issuance Date: December 30, 2015

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I. EFFLUENT LIMITATIONS, MONITORING REQUIREMENTS & OTHER CONDITIONS

A. Description of Discharge Points and Mixing Zone

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under an MPDES permit is a violation of the Montana Water Quality Act and could subject the person(s) responsible for such discharge to penalties under the Act. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge within a reasonable time from first learning of an unauthorized discharge could subject such person to criminal penalties as provided under Section 75-5-632 of the Montana Water Quality Act.

<u>Outfall</u>	<u>Description</u>
003	<p>Location: At the end of the pipe, discharging into Unnamed Tributary to Miller Gulch, located at 47° 58' 56" N latitude, 115° 44' 02" W longitude</p> <p>Mixing Zone: None</p> <p>Treatment Works: Velocity reduction, filtration, settling; reuse in process water circuit</p>
004	<p>Location: At the end of the pipe, discharging into Rock Creek, located at 48° 01' 29" N latitude, 115° 42' 15" W longitude</p> <p>Mixing Zone: The maximum extent of the chronic mixing zone in the named receiving waters is as follows: less than two stream widths downstream for the following parameters: cadmium, copper, and zinc</p> <p>Treatment Works: Velocity reduction, filtration, settling; reuse in process water circuit</p>
006	<p>Location: At the end of the pipe, discharging into Unnamed Tributary to West Fork Rock Creek, located at 48° 03' 45" N latitude, 115° 41' 55" W longitude</p> <p>Mixing Zone: None</p> <p>Treatment Works: Velocity reduction, filtration, settling; reuse in process water circuit</p>

007 **Location:** At the end of the pipe, discharging into **Unnamed Tributary to West Fork Rock Creek**, located 48° 03' 48" N latitude, 115° 41' 59" W longitude

Mixing Zone: None

Treatment Works: Velocity reduction, filtration, settling

B. Effluent Limitations

Outfall 003

Beginning on the effective date of this permit and lasting through the term of the permit, the quality of effluent discharged by the facility shall, as a minimum, meet the limitations as set forth below:

Numeric Discharge Limitations, Outfall 003⁽¹⁾			
Parameter	Units	Average Monthly Limitation	Daily Maximum Limitation
Total Suspended Solids (TSS)	mg/L	NA	30
Oil and Grease	mg/L	NA	10
Footnotes: NA = Not applicable 1. See Definitions section at end of permit for explanation of terms.			

Outfall 004

Beginning on the effective date of this permit and lasting through the term of the permit, the quality of effluent discharged by the facility shall, as a minimum, meet the limitations as set forth below:

Numeric Discharge Limitations, Outfall 004⁽¹⁾			
Parameter	Units	Average Monthly Limitation	Daily Maximum Limitation
Total Suspended Solids (TSS)	mg/L	NA	30
Ammonia, Total (as N)	mg/L	0.5	0.5
Inorganic Nitrogen, Total (as N)	mg/L	1.0	1.5
Oil and Grease	mg/L	NA	10
Cadmium, Total Recoverable	µg/L	0.097	0.52
Copper, Total Recoverable	µg/L	2.85	3.79
Zinc, Total Recoverable	µg/L	20	20
pH	s.u.	Within the range of 6.5 – 8.5 at all times	
Footnotes: NA = Not applicable 1. See Definitions section at end of permit for explanation of terms.			

Outfall 006

Beginning on the effective date of this permit and lasting through the term of the permit, the quality of effluent discharged by the facility shall, as a minimum, meet the limitations as set forth below:

Numeric Discharge Limitations, Outfall 006 ⁽¹⁾			
Parameter	Units	Average Monthly Limitation	Daily Maximum Limitation
Total Suspended Solids (TSS)	mg/L	20 ⁽²⁾	30
Oil and Grease	mg/L	NA	10
Cadmium, Total Recoverable	µg/L	0.097 ⁽²⁾	0.52 ⁽²⁾
Copper, Total Recoverable	µg/L	2.85 ⁽²⁾	3.79 ⁽²⁾
Lead, Total Recoverable	µg/L	0.54 ⁽²⁾	13.98 ⁽²⁾
Mercury, Total Recoverable	µg/L	0.05 ⁽²⁾	0.05 ⁽²⁾
Zinc, Total Recoverable	µg/L	37 ⁽²⁾	37 ⁽²⁾
pH	s.u.	Within the range of 6.0 – 9.0 at all times ⁽²⁾	
Footnotes: NA = Not applicable 1. See Definitions section at end of permit for explanation of terms. 2. Effluent limits apply only while ore is stockpiled at the Evaluation Adit Site.			

Outfall 007

Beginning on the effective date of this permit and lasting through the term of the permit, the quality of effluent discharged by the facility shall, as a minimum, meet the limitations as set forth below:

Numeric Discharge Limitations, Outfall 007⁽¹⁾			
Parameter	Units	Average Monthly Limitation	Daily Maximum Limitation
TSS	mg/L	NA	30
Oil and Grease	mg/L	NA	10
Footnotes: NA = Not applicable 1. See Definitions section at end of permit for explanation of terms.			

Additional Effluent Limitations – Outfalls 003, 006, and 007

There shall be no discharge allowed from Outfalls 003, 006, and 007 unless the measured precipitation exceeds 2.8 inches, or equivalent amount of snowmelt runoff, in a 24-hour period as recorded at the tailing storage facility.

The facility shall be designed, constructed, and maintained to contain the maximum volume of wastewater from the active surface area that would result from a 100-year event during any 24-hour period, or the equivalent snowmelt, from all areas contributing runoff to the storm water detention pond.

The permittee shall submit to the Department for review and approval, 180 days prior to construction, complete plans, specifications and schedule, for the paste storage and evaluation adit facility storm water control, detention, and treatment system.

The discharge of process wastewater or any water resulting from mine dewatering activities is prohibited.

Additional Effluent Limitations – Outfall 004

There shall be no discharge allowed from Outfall 004 unless the measured precipitation exceeds 2.8 inches, or equivalent amount of snowmelt runoff, in a 24-hour period as recorded at the mill site facility.

The facility shall have to be designed, constructed, and maintained to contain the maximum volume of storm water that would be generated during a 10-year, 24-hour precipitation event.

The permittee shall submit to the Department for review and approval, 180 days prior to construction, complete plans, specifications and schedule, for the mill facility storm water control, detention, and treatment system

The discharge of process wastewater or any water resulting from mine dewatering activities is prohibited.

C. Monitoring Requirements

1. Outfalls 003, 004, 006, and 007

The permittee shall collect a grab sample within, at minimum, the first thirty minutes of discharge from any permitted outfall for any discharges which results from precipitation-related event. As an alternative to a single grab sample, the permittee may take a flow-weighted composite of either the entire discharge or for the first three hours of the discharge. For a flow-weighted composite, only one analysis of the composited aliquots is required. Flow weighted composite samples are not allowed for pH, total phenols, or oil and grease.

As a minimum, upon the effective date of this permit, the following constituents shall be monitored at each individual outfall at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated in the Discharge Monitoring Report form that no discharge or overflow occurred.

All effluent and ambient monitoring must be conducted in accordance with test procedures approved under 40 CFR Part 136, unless another method is specified in 40 CFR Chapter I Subchapters N or O. Analytical methods must achieve the required reporting value (RRV) specified in Department Circular DEQ-7 unless otherwise specified in this permit. The permittee may use any approved analytical method capable of achieving the RRV specified in the permit.

Monitoring Requirements, Outfalls 003, 004, 006, and 007							
Parameter	Monitoring Location	Units	Sample Type⁽¹⁾	Minimum Sampling Frequency	Reporting Requirements⁽¹⁾⁽²⁾⁽³⁾	Reporting Frequency	Reporting Level
Precipitation	Rain Gage	inches	Continuous	1/Discharge	Daily Total	Monthly	0.01
Flow Rate	Flow Meter ⁽⁴⁾	gpm	Continuous	1/Discharge	Maximum Daily and Average Monthly	Monthly	± 10% of actual flow
Chemical Oxygen Demand (COD)	Each Outfall	mg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	1
Total Suspended Solids (TSS)	Each Outfall	mg/L	Composite	1/Discharge	Maximum Daily and Average Monthly	Monthly	4
Total Dissolved Solids (TDS)	Each Outfall	mg/L	Composite	1/Discharge	Maximum Daily and Average Monthly	Monthly	4
pH	Each Outfall	s.u.	Instantaneous	1/Discharge	Daily Maximum and Daily Minimum	Monthly	0.1
Oil & Grease ⁽⁶⁾	Each Outfall	mg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	5
Nitrate + Nitrite (as N)	Each Outfall	mg/L	Composite	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.02
Total Ammonia (as N)	Each Outfall	mg/L	Composite	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.07
Total Kjeldahl Nitrogen (as N)	Each Outfall	mg/L	Composite	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.15
Total Inorganic Nitrogen (as N) ⁽⁷⁾	Each Outfall	mg/L lbs/day ⁽⁵⁾	Calculated	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.01
Total Nitrogen (as N) ⁽⁸⁾	Each Outfall	mg/L lbs/day ⁽⁵⁾	Calculated	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.01
Total Phosphorus (as P)	Each Outfall	mg/L lbs/day ⁽⁵⁾	Composite Calculated	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.001
Antimony, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.5
Arsenic, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	1
Beryllium, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.8
Cadmium, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.03
Copper, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	2
Iron, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	20
Lead, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.3
Mercury, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.005
Nickel, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	2
Selenium, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	1
Silver, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	0.2

Monitoring Requirements, Outfalls 003, 004, 006, and 007

Parameter	Monitoring Location	Units	Sample Type ⁽¹⁾	Minimum Sampling Frequency	Reporting Requirements ⁽¹⁾⁽²⁾⁽³⁾	Reporting Frequency	Reporting Level
Zinc, Total Recoverable	Each Outfall	µg/L	Grab	1/Discharge	Maximum Daily and Average Monthly	Monthly	8

- Footnotes:
1. See definitions in Part V of the permit.
 2. Maximum Daily: Report highest measured daily value for the reporting period on Discharge Monitoring Report (DMR) form.
 3. If no discharge occurs during the reporting period then "No Discharge" shall be recorded on the DMR form.
 4. Effluent flow rate must be reported for each individual outfall
 5. Load calculation: lbs/day = the average of all calculated individual daily average loads (lbs/day) recorded during the reporting period.
 6. EPA method 1664 (hexane extraction method) or other 40 CFR 136 approved method.
 7. Total Inorganic Nitrogen is the sum of the Nitrate + Nitrite and Total Ammonia parameters.
 8. Total Nitrogen is the sum of the Nitrate + Nitrite and Total Kjeldahl Nitrogen parameters.

2. Other Monitoring

Precipitation Monitoring

The permittee is required to monitor and report precipitation in the Rock Creek drainage basin, using a precipitation gauge that meets the standards provided in National Weather Service’s Instructional Bulletin 10-1302 (October 4, 2005), *Instrument Requirements and Standards for the NWS Surface Observing Programs (Land)*, which are provided in the table below. Precipitation monitoring is required to provide evidence that a precipitation event resulted in a discharge and that alternate limitations and monitoring requirements apply. Precipitation gauge installation and precipitation monitoring must start no later than the quarter prior to the completion and operation of tailings, mill or adit site facilities.

Precipitation Gauge Performance Standards			
Parameter	Accuracy	Range	Resolution
Liquid Precipitation Accumulated Amount	±0.02 inches or 4 percent of hourly amount (whichever is greater)	0-10 inches/Hour	0.01 inch
Snow Depth	0 to 5 inches: ±0.5 inches, >5 to 99 inches: ±1.0 inch	0 to 99 inches (auto)	1 inch
Freezing Precipitation	Detection occurs whenever 0.01 inch accumulates	0 to 40 inches	0.01 inch
Frozen Precipitation (Water Equivalent)	±0.04 inches or 1 percent of total accumulation	0 to 40 inches	0.01 inch

Stream Discharge Monitoring

The permittee is required to monitor and report stream flow in Rock Creek upstream of where Outfall 004 enters the receiving water (Rock Creek). The permittee should establish a permanent stream staff gage and discharge monitoring location, and collect measurements throughout the water year to develop an annual hydrograph and determine the seven-day average, 10-year low flow (7Q10) for further permitting purposes. Site selection, discharge measurements, and hydrograph development should be done in accordance with standard procedure, as established by the United States Geological Survey. Discharge monitoring data and associated hydrograph should be reported to the Department in an annual report due

January 28th of each year. Compliance with annual reporting is discussed in Part II.E of this permit. Each annual report will address data from the previous water year (October 1 to September 30), and incorporate data from previous water years/annual reports (as applicable). Gage installation and flow monitoring should start in the quarter before completion and operation of mill site facilities.

D. Special Conditions

1. Best Management Practices

The NPDES regulations at 40 CFR 122.44(k) (incorporated by reference in ARM 17.30.1344(2)(b)) state that Best Management Practices (BMPs) may be included as permit conditions when authorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances from ancillary industrial activities; authorized under section 402(p) of the CWA for the control of storm water discharges; numeric effluent limitations are infeasible; or when BMPs are necessary to achieve effluent limitations or carry out the purposes and intent of the CWA. A number of sites and activities found at metal mining facilities require the implementation of BMPs to prevent the contamination of storm water. Additionally, restabilization must occur with any disturbed areas. BMPs should be referenced and incorporated into the facility’s Storm Water Pollution Protection Plan (SWPPP) as necessary and BMPs from other programs or permitting authorities may be substituted, provided the source and justification for the BMP is included in the SWPPP.

2. Ambient Monitoring Requirements

The permittee is required to monitor the ambient conditions in Rock Creek upstream of Outfall 004. Monitoring shall commence with the final construction of the Mill Facility, and occur semi-annually to capture high- and low-flow events in Rock Creek. One sample shall occur in the 2nd quarter and the other in the 4th quarter of each calendar year. Ambient monitoring requirements are presented in the table below.

Ambient Monitoring Requirements – Rock Creek					
Parameter	Units	Minimum Monitoring Frequency⁽¹⁾	Sample Type⁽²⁾	Reporting Requirements	RRV
Temperature	°F	2/year	Instantaneous	Single Sample	--
pH	s.u.	2/year	Instantaneous	Single Sample	0.1
Ammonia, Total (as N)	mg/L	2/year	Grab	Single Sample	0.07
Total Kjeldahl Nitrogen (as N)	mg/L	2/year	Grab	Single Sample	0.5
Inorganic Nitrogen, Total (as N) ⁽³⁾	mg/L	2/year	Calculated	Single Sample	0.01
Nitrate + Nitrate (as N)	mg/L	2/year	Grab	Single Sample	0.02
Nitrogen, Total (as N) ⁽⁴⁾	mg/L	2/year	Calculated	Single Sample	0.001
Phosphorus, Total (as P)	mg/L	2/year	Grab	Single Sample	0.001
Arsenic, Total Recoverable ⁽⁵⁾	µg/L	2/year	Grab	Single Sample	1

Ambient Monitoring Requirements – Rock Creek					
Parameter	Units	Minimum Monitoring Frequency⁽¹⁾	Sample Type⁽²⁾	Reporting Requirements	RRV
Cadmium, Total Recoverable ⁽⁵⁾	µg/L	2/year	Grab	Single Sample	0.8
Copper, Total Recoverable ⁽⁵⁾	µg/L	2/year	Grab	Single Sample	2
Lead, Total Recoverable ⁽⁵⁾	µg/L	2/year	Grab	Single Sample	0.3
Mercury, Total Recoverable ⁽⁵⁾	µg/L	2/year	Grab	Single Sample	0.005
Selenium, Total Recoverable ⁽⁵⁾	µg/L	2/year	Grab	Single Sample	1
Zinc, Total Recoverable ⁽⁵⁾	µg/L	2/year	Grab	Single Sample	8
Hardness	mg/L	2/year	Grab	Single Sample	1

Footnotes:

1. Sampling shall occur in the 2nd monitoring quarter (April - June) and the 4th monitoring quarter (October – December).
2. See Definition section at end of permit for explanation of terms.
3. Sum of Ammonia and Nitrate + Nitrite
4. Sum of Kjeldahl Nitrogen and Nitrate + Nitrite
5. Metals shall be analyzed as total recoverable, use EPA Method (Section) 4.1.4 [EPA 600/4-79-020, March 1983] or equivalent.

3. Storm Water Management

The permittee must develop and maintain a Storm Water Pollution Protection Plan (SWPPP) that describes the facility, BMPs, control measures, and monitoring procedures that will ensure compliance with the terms and conditions of their MPDES permit. The BMPs implemented at the facility may be structural or non-structural in nature. The SWPPP must be submitted to the Department no later than 60 days after the effective date of the permit. SWPPPs are intended to be maintained such that they are updated and adjusted to reflect current conditions, activities, and any storm water issues identified at the facility. Periodic evaluation of the SWPPP and the ongoing improvements to the facility, as documented in the SWPPP, will serve to improve the quality of storm water runoff.

The SWPPP must contain a narrative evaluation of the appropriateness of storm water management practices that divert, infiltrate, reuse, or otherwise manage storm water runoff such as to reduce the discharge of pollutants. Appropriate measures are highly site-specific, but may include, among others, vegetative swales, collection and reuse of storm water, inlet controls, snow management, infiltration devices, and wet retention measures. The SWPPP must document, at minimum, the following:

Storm Water Pollution Prevention Team and SWPPP Administrator

The permittee must identify the staff members that comprise the facility’s storm water pollution prevention team as well as their individual responsibilities. This team must include, and the SWPPP specify, a “SWPPP Administrator.” The SWPPP Administrator is the lead responsible person for ensuring the development, implementation, and maintenance of the SWPPP. The SWPPP Administrator also serves as the primary contact person regarding the SWPPP. The facility’s storm water pollution prevention team is responsible for assisting the facility manager in developing and revising the facility’s SWPPP as well as maintaining control measures and taking corrective actions

where required. Each member of the storm water pollution prevention team must have ready access to this permit and SWPPP.

Site Description

The SWPPP must provide a description of the nature of the industrial activities at the facility. The SWPPP must document the mining and associated activities with the potential to impact the storm water discharges covered by this permit.

Site Map

The SWPPP must include a legible map(s) of sufficient scale which clearly shows current conditions including the following:

- Map scale;
- North arrow;
- The site boundaries for the facility or activity;
- Locations of all receiving waters in the immediate vicinity of the facility;
- The location and extent of structures and impervious surfaces;
- Directions of storm water flow (use arrows);
- Locations of all existing structural storm water control measures;
- Locations of all storm water conveyances including ditches, pipes, and swales;
- Locations of all storm water outfall and monitoring points;
- Locations of storm water inlets and outfalls, with a unique identification code for each outfall;
- Locations of potential pollutant sources;
- Locations where spills or leaks have occurred;
- Locations and descriptions of all non-storm water discharges;
- Locations and sources of run-on to the facility from adjacent property that contains pollutants; and
- Locations of the following activities where such activities are exposed to precipitation:
 - Fueling stations;
 - Vehicle and equipment maintenance and/or cleaning areas;
 - Loading/unloading areas;
 - Locations used for the treatment, storage, or disposal of wastes;
 - Liquid storage tanks;
 - Processing and storage areas;
 - Immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility;
 - Major permanent facility structures; transfer areas for substances in bulk; and
 - Machinery.

In addition to the above items, the SWPPP must document the locations of the following (as appropriate):

- Mining or milling site boundaries;
- Access and haul roads;

- Outline of the drainage areas of each storm water outfall within the facility with indications of the types of discharges from the drainage areas;
- Location(s) of all permitted discharges covered under an individual MPDES permit;
- Outdoor equipment storage, fueling, and maintenance areas;
- Materials handling areas;
- Outdoor manufacturing, outdoor storage, and material disposal areas;
- Outdoor chemicals and explosives storage areas;
- Overburden, materials, soils, or waste storage areas;
- Location of mine drainage (where water leaves the mine) or other process water;
- Tailings piles and ponds (including proposed ones);
- Heap leach pads; off-site points of discharge for mine drainage and process water;
- Surface waters;
- Boundary of tributary areas that are subject to effluent limitations guidelines; and
- Location(s) of reclaimed areas.

Summary of any Potential Pollutant Sources

The permittee must document in the SWPPP areas at the facility where industrial materials or activities are exposed to storm water and from which allowable non-storm water discharges are released. Industrial materials or activities include, but are not limited to: material handling equipment or activities; industrial machinery; raw materials; industrial production and processes; and intermediate products, byproducts, final products, and waste products. Material handling activities include, but are not limited to: the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product or waste product. For each area identified, the description must include:

- A list of the industrial activities exposed to storm water (e.g., material storage; equipment fueling, maintenance, and cleaning);
- A list of the pollutant(s) or pollutant constituents (e.g. crankcase oil, zinc, sulfuric acid, and/or cleaning solvents) associated with each identified activity. The pollutant list must include materials that have been handled, treated, stored, or disposed, and that have been exposed to storm water in the 3 years prior to the date of the SWPPP; and
- Documentation of where potential spills and leaks may occur that might contribute pollutants to storm water discharges, and the corresponding outfall(s) potentially affected by such spills and leaks. The permittee must document spills and leaks of oil or toxic or hazardous pollutants that actually occurred at exposed areas or that drained to a storm water conveyance, in the 3 years prior to the date of the SWPPP.

Each facility component or system must be examined for its waste minimization opportunities and its potential for discharge to state waters due to equipment failure, improper operation, and natural phenomena. This examination must include, at a minimum, all normal operations and ancillary activities including (as appropriate) material storage areas, plant site runoff, in-plant transfer, process and material handling areas, loading or unloading operations, spillage or leaks, sludge and waste disposal, or drainage from raw material storage.

Description of Control Measures and BMPs

The permittee must document in the SWPPP the location and types of control measures installed and implemented at the facility and describe how the control measure selection and design considerations were addressed. This documentation must describe how the control measures address both the pollutant sources identified and any storm water run-on that commingles with any discharges covered under this permit. Documentation of control measures must include design and maintenance criteria for permanent and temporary structural control measures (i.e. plans, detail drawings, cross-sections, specifications, narrative description, etc.) and an appropriate maintenance schedule. The selection, design, installation, and implementation of these control measures must be in accordance with good engineering practices and/or manufacturer's specifications, and the SWPPP should reference all source(s) used in BMP design, installation, implementation, and maintenance specifications (i.e. EPA, Montana Department of Transportation, or other BMP manuals). Note that the permittee may deviate from such manufacturer's specifications as long as the permittee provide justification any deviation and includes documentation of the rationale in the part of the SWPPP that describes control measures. In addition, any other requirements for other programs or permitting activities which would meet the SWPPP requirements may be incorporated. If the permittee finds that any control measures are not achieving their intended effect of minimizing pollutant discharges, then the permittee must modify these control measures as expeditiously as practicable.

Control measures that must be documented in the SWPPP and implemented by the permittee must, at a minimum, include:

- Good Housekeeping Procedures. Keep clean all exposed areas that are potential sources of pollutants, using such measures as sweeping at regular intervals, keeping materials orderly and labeled, and storing materials in appropriate containers.
- Maintenance. Regularly inspect, test, maintain, and repair all industrial equipment and systems to avoid situations that may result in leaks, spills, and other releases of pollutants in storm water discharged to receiving waters. All control measures that are used to achieve the effluent limits required by this permit in must be maintained in effective operating condition. Non-structural control measures must also be diligently maintained (e.g., spill response supplies available, personnel appropriately trained). If control measures need to be replaced or repaired, then the permittee must make the necessary repairs or modifications before the next storm event if possible, or as soon as practicable following that storm event.
- Spill Prevention and Response Procedures. Minimize the potential for leaks, spills and other releases that may be exposed to storm water and develop plans for effective response to such spills if or when they occur. At a minimum, the SWPPP must document and the permittee must implement the following:
 - Procedures for plainly labeling containers (e.g., "Used Oil," "Spent Solvents," "Fertilizers and Pesticides," etc.) that may be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur;
 - Preventative measures such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;

- Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available; and
- Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.
- Erosion and Sediment Controls. The permittee must stabilize exposed areas and contain runoff using structural and/or non-structural control measures to minimize onsite erosion and sedimentation, and the resulting discharge of pollutants. Among other actions, flow velocity dissipation devices must be placed at discharge locations and within outfall channels where necessary to reduce erosion and/or settle out pollutants. In selecting, designing, installing, and implementing appropriate control measures, the permittee is encouraged to consult with available guidance resources relating to BMPs for erosion and sedimentation, including industrial sector-specific information.
- Management of Runoff. The permittee must divert, infiltrate, reuse, contain, or otherwise reduce storm water runoff, to minimize pollutants in any discharges. In selecting, designing, installing, and implementing appropriate control measures, the permittee is encouraged to consult with available guidance resources relating to storm water BMPs for runoff management, including industrial sector-specific information.

Additionally, the permittee must address and document the following in their SWPPP:

- The number and quantity of pollutants and the toxicity of effluent generated, discharged, or potentially discharged at the facility must be minimized by the permittee to the extent feasible by managing each influent waste stream in the most appropriate manner;
- Storm water control measures must be designed, operated, and maintained to maximize the chemical and/or physical processes that reduce or eliminate the discharge of any pollutants to state surface waters;
- Sediment ponds must be clearly staked to indicate sediment accumulation;
- The permittee must ensure proper operation and maintenance of any control and/or discharge structures;
- To the maximum extent possible, 100-foot setbacks or 35-foot vegetated buffer strips between roads and/or other impervious surfaces and any downgradient surface waters or other conduits to surface waters will be established and/or maintained;
- Where experience indicates a reasonable potential for equipment failure (e.g., a tank overflow or leakage), natural condition (e.g., precipitation), or other circumstances that may result in significant amounts of pollutants reaching state waters, the SWPPP should include a prediction of the direction, rate of flow and total quantity of pollutants that could be discharged from the facility as a result of each condition or circumstance;
- The permittee must take into account and control for sediment in snow plowed or otherwise removed from the mine, ancillary facilities, and roads; and
- Discharges to frozen or snow-covered ground must be minimized or eliminated.

Any Schedules and/or Standard Operating Procedures

The SWPPP must document any control measure inspections, routine maintenance, and/or procedures that impact the potential generation and/or discharge of pollutants by the facility. The permittee must conduct a facility inspection once every 30 days and within 24 hours of a significant precipitation event of 0.5 inches or greater. At a minimum, the documentation of each routine facility inspection must include the following:

- The inspection date and time;
- The name(s) and signature(s) of the inspector(s);
- Weather information;
- A description of any discharges occurring at the time of the inspection;
- Any previously unidentified discharges of pollutants from the site;
- Any observations of obvious indicators of storm water pollution;
- Any control measures needing maintenance or repairs;
- Any failed control measures that need replacement;
- Any incidents of noncompliance observed; and
- Any additional control measures needed to comply with the permit requirements.

An inspection for a significant storm event may also be used and credited towards one of the monthly inspections.

Corrective Actions

If any of the following conditions occur then the permittee must review and revise the selection, design, installation, implementation, and maintenance of the facility's control measures to ensure that the condition is eliminated and will not be repeated in the future:

- An unauthorized release or discharge (e.g., spill, leak, or discharge of non-storm water not authorized by this or another MPDES permit) occurs at the facility;
- The permittee become aware, or the Department determines, that the control measures are not stringent enough for the discharge to meet applicable water quality standards;
- An inspection or evaluation of the facility by a Department representative determines that modifications to the control measures are necessary to meet the non-numeric effluent limits in this permit; or
- An inspection finds that the control measures are not being properly operated and maintained.

Corrective Action Deadlines

If an inspection or other observation identifies storm water pollution or control measures needing repair or replacement then the permittee must document these conditions within 24 hours of making such discovery. Subsequently, within 14 days of such discovery, the permittee must document any corrective actions taken or needed, any further investigation the deficiency, or the basis for determining that no further action is needed. If the permittee determines that any changes are necessary following the review, then any modifications to the control measures must be made before the next storm event if

possible, or as soon as practicable following that storm event. The permittee must document the following:

- A summary of any corrective actions taken;
- Notice of whether any SWPPP modifications are required;
- The date any corrective action was initiated; and
- The date that the corrective action was completed.

These time intervals are not grace periods but are schedules considered reasonable for documenting any findings and for making necessary repairs and improvements. They are included in this permit to ensure that the conditions prompting the need for these repairs and improvements are not allowed to persist indefinitely.

Effect of Corrective Action

If the event triggering the corrective action review is a permit violation then correcting it does not remove the original violation. Additionally, failing to take corrective action in accordance with this section is an additional permit violation. The Department will consider the appropriateness and promptness of corrective action in determining potential enforcement responses to permit violations.

Employee Training

The SWPPP Administrator must ensure all employees receive in-house training, including all members of the pollution prevention team, 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). Training must cover both the specific control measures used to achieve the effluent limits in this permit, and the monitoring, inspection, planning, reporting, and documentation requirements in other parts of this permit. Training must be conducted at least annually at a minimum and the date of the training and employees in attendance must be documented.

SWPPP Modifications and Updates

The SWPPP must be maintained and kept up-to-date to reflect current site conditions. If construction or a change in the design, operation, or maintenance at the facility either changes the nature of pollutants discharged in storm water from the facility or increases the quantity of pollutants discharged, then the permittee must review the selection, design, installation, implementation, and maintenance of the facility's control measures to determine if any modifications to the SWPPP are necessary.

The permittee is required to operate, build, and maintain the facility and storm water practices as identified in their SWPPP. The permittee is free to adjust or change the control measures used at any time. This flexibility allows the permittee to adjust practices as necessary to ensure continued compliance with the permit. The SWPPP must be kept up-to-date to document any changes in BMPs, control measures or corrective actions. Any changes to the SWPPP must be submitted to the Department within 30 days for review. Any SWPPP modification or update must be signed in accordance with the signatory requirements of Part IV.G. of the permit.

E. Compliance Schedule

The actions listed in the table below must be completed on or before the respective scheduled completion dates. The completion of all actions or deliverables must be reported to the Department at the address listed in Part II.D. of the permit and in accordance with the signatory requirements of Part IV.G. of the permit.

Compliance Schedule			
Action	Frequency	Action Scheduled Completion Date⁽¹⁾	Report Due Date⁽²⁾
Submit a report documenting the Rock Creek stream flow data and the hydrograph analysis	1/Year	By December 31 st every year following the completion and operation of the Mill Site Facility	Due on or before January 28 th of each year following the completion and operation of the Mill Site Facility
Footnotes:			
1. The actions must be completed on or before the scheduled completion dates.			
2. This notification must be postmarked or electronically submitted to the Department on or before the scheduled due date.			

II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Representative Sampling

Samples taken in compliance with the monitoring requirements established under Part I of the permit shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

B. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under Part 136, Title 40 of the Code of Federal Regulations, unless other test procedures have been specified in this permit.

C. Penalties for Tampering

The Montana Water Quality Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.

D. Reporting of Monitoring Results

Monitoring results must be reported within a Discharge Monitoring Report (DMR). Monitoring results must be submitted electronically (NetDMR web-based application) no later than the 28th day of the month following the end of the monitoring period. If no discharge occurs during the entire reporting period, "No Discharge" must be reported within the respective DMR. All other reports must be signed and certified in accordance with Part IV.G 'Signatory Requirements' of this permit and submitted to DEQ at the following address:

Montana Department of Environmental Quality
Water Protection Bureau
PO Box 200901
Helena, Montana 59620-0901
Phone: (406) 444-3080

E. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit must be submitted to the Department in either electronic or paper format and be postmarked no later than 14 days following each schedule date unless otherwise specified in the permit.

F. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using approved analytical methods as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report. Such increased frequency shall also be indicated.

G. Records Contents

Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The initials or name(s) of the individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The time analyses were initiated;
5. The initials or name(s) of individual(s) who performed the analyses;
6. References and written procedures, when available, for the analytical techniques or methods used; and
7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

H. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time. Data collected on site, copies of Discharge Monitoring Reports, and a copy of this MPDES permit must be maintained on site during the duration of activity at the permitted location.

I. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee shall report any serious incidents of noncompliance as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The report shall be made to the Water Protection Bureau at (406) 444-3080 or the Office of Disaster and Emergency Services at (406) 324-4777. The following examples are considered serious incidents:
 - a. Any noncompliance which may seriously endanger health or the environment;
 - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part III.G of this permit, "Bypass of Treatment Facilities"); or
 - c. Any upset which exceeds any effluent limitation in the permit (see Part III.H of this permit, "Upset Conditions").

2. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected; and
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
3. The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Protection Bureau, by phone, (406) 444-3080.
4. Reports shall be submitted to the addresses in Part II.D of this permit, "Reporting of Monitoring Results".

J. Other Noncompliance Reporting

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

K. Inspection and Entry

The permittee shall allow the head of the Department or the Director, or an authorized representative thereof, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance, any substances or parameters at any location.

III. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the Department or the Regional Administrator 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 \$10,000 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, for subsequent convictions. MCA 75-5-611(a) also provides for administrative penalties not to exceed \$10,000 for each day of violation and up to a maximum not to exceed \$100,000 for any related series of violations. Except as provided in permit conditions on Part III.G of this permit, "Bypass of Treatment Facilities" and Part III.H of this permit, "Upset Conditions", nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

C. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that 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 that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Removed Substances

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard.

G. Bypass of Treatment Facilities

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III.G.2 and III.G.3 of this permit.
2. Notice:
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.
 - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.I of this permit, "Twenty-four Hour Reporting".
3. Prohibition of bypass:
 - a. Bypass is prohibited and the Department may take enforcement action against a permittee for a bypass, unless:
 - 1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - 3) The permittee submitted notices as required under Part III.G.2 of this permit.
 - b. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in Part III.G.3.a of this permit.

H. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part III.H.2 of this permit are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to

judicial review (i.e. Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with 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 II.I of this permit, "Twenty-four Hour Notice of Noncompliance Reporting"; and
 - d. The permittee complied with any remedial measures required under Part III.D of this permit, "Duty to Mitigate".
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

I. Toxic Pollutants

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water 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.

J. 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 µg/L);
 - b. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 µg/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 µg/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).

IV. GENERAL REQUIREMENTS

A. Planned Changes

The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when 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 this permit, the permittee must apply for and obtain a new permit. The application must be submitted at least 180 days before the expiration date of this permit.

E. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for revoking, modifying and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

F. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Department, it shall promptly submit such facts or information with a narrative explanation of the circumstances of the omission or incorrect submittal and why they weren't supplied earlier.

G. Signatory Requirements

All applications, reports or information submitted to the Department or the EPA 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 an individual occupying a named position.)
 3. Changes to authorization. If an authorization under Part IV.G.2 of this permit is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part IV.G.2 of this permit must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
 4. Certification. Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

H. Penalties for Falsification of Reports

The Montana Water Quality Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document

submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$25,000 per violation, or by imprisonment for not more than six months per violation, or by both.

I. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Clean Water Act, permit applications, permits and effluent data shall not be considered confidential.

J. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

K. Property or Water Rights

The issuance of this permit does not convey any property or water rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

L. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

M. Transfers

This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Department at least 30 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them;
3. The Department does not notify the existing permittee and the proposed new permittee of an intent to revoke or modify and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part IV.M.2 of this permit; and
4. Required annual and application fees have been paid.

N. Fees

The permittee is required to submit payment of an annual fee as set forth in ARM 17.30.201. If the permittee fails to pay the annual fee within 90 days after the due date for the payment, the Department may:

1. Impose an additional fee assessment computed at the rate established under ARM 17.30.201; and,
2. Suspend the processing of the application for a permit or authorization or, if the nonpayment involves an annual permit fee, suspend the permit, certificate or authorization for which the fee is required. The Department may lift suspension at any time up to one year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments and interest imposed under this sub-section. Suspensions are limited to one year, after which the permit will be terminated.

O. Reopener Provisions

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:

1. **Water Quality Standards:** The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
2. **Water Quality Standards are Exceeded:** If it is found that water quality standards or trigger values in the receiving stream are exceeded either for parameters included in the permit or others, the department may modify the effluent limits or water management plan.
3. **TMDL or Wasteload Allocation:** TMDL requirements or a wasteload allocation is developed and approved by the Department and/or EPA for incorporation in this permit.
4. **Water Quality Management Plan:** A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.
5. **Toxic Pollutants:** A toxic standard or prohibition is established under Section 307(a) of the Clean Water 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.
6. **Toxicity Limitation:** Change in the whole effluent protocol, or any other conditions related to the control of toxicants have taken place, or if one or more of the following events have occurred:

- a. Toxicity was detected late in the life of the permit near or past the deadline for compliance.
- b. The TRE/TIE results indicated that compliance with the toxic limits will require an implementation schedule past the date for compliance and the permit issuing authority agrees with the conclusion.
- c. The TRE/TIE results indicated that the toxicant(s) represent pollutant(s) that may be controlled with specific numerical limits, and the permit issuing authority agrees that numerical controls are the most appropriate course of action.
- d. Following the implementation of numerical controls on toxicants, the permit issuing authority agreed that a modified whole effluent protocol is needed to compensate for those toxicants that are controlled numerically.
- e. The TRE/TIE revealed other unique conditions or characteristics which, in the opinion of the permit issuing authority, justify the incorporation of unanticipated special conditions in the permit.

V. DEFINITIONS

1. **"30-day (and monthly) average,"** other than for fecal coliform bacteria, means the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for fecal coliform bacteria. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
2. **"7-day (and weekly) average,"** other than for fecal coliform bacteria, means the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for fecal coliform bacteria. The 7-day averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks in the month that has at least four days. For example, if a calendar week overlaps two months, the weekly average is calculated only in the month that contains four or more days of that week.
3. **"Acute Toxicity"** means when 50 percent or more mortality is observed for either species (See Part I.C of this permit.) at any effluent concentration. Mortality in the control must simultaneously be 20 percent or less for the effluent results to be considered valid.
4. **"Annual Average Load"** means the arithmetic mean of all 30-day or monthly average loads reported during the calendar year for a monitored parameter.
5. **"Arithmetic Mean"** or **"Arithmetic Average"** for any set of related values means the summation of the individual values divided by the number of individual values.
6. **"BOD₅"** means the five-day measure of pollutant parameter biochemical oxygen demand.
7. **"Bypass"** means the intentional diversion of waste streams from any portion of a treatment facility.
8. **"CBOD₅"** means the five-day measure of pollutant parameter carbonaceous biochemical oxygen demand.
9. **"Chronic Toxicity"** means when the survival, growth, or reproduction, as applicable, for either test species, at the effluent dilution(s) designated in this permit (see Part I.C.), is significantly less (at the 95 percent confidence level) than that observed for the control specimens.
10. **"Composite Sample"** means a sample composed of two or more discrete aliquots (samples). The aggregate sample will reflect the average quality of the water or wastewater in the compositing or sample period. Composite sample may be

composed of constant volume aliquots collected at regular intervals (simple composite) or flow proportioned.

11. **"Daily Maximum Limit"** means the maximum allowable discharge of a pollutant during a calendar day. Expressed as units of mass, the daily discharge is cumulative mass discharged over the course of the day. Expressed as a concentration, it is the arithmetic average of all measurements taken that day.
12. **"Department"** means the Montana Department of Environmental Quality (DEQ).
13. **"Director"** means the Director of the United States Environmental Protection Agency's Water Management Division.
14. **"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.
15. **"EPA"** means the United States Environmental Protection Agency.
16. **"Grab"** sample, for monitoring requirements, means a single "dip and take" sample collected at a representative point in the discharge stream.
17. **"Instantaneous"** measurement, for monitoring requirements, means a single reading, observation, or measurement.
18. **"Load Limits"** are mass-based discharge limits expressed in units such as lb/day.
19. **"Minimum Level"** (ML) of quantitation means the lowest level at which the entire analytical system gives a recognizable signal and acceptable calibration point for the analyte, as determined by the procedure set forth at 40 CFR 136. In most cases the ML is equivalent to the Required Reporting Value (RRV) unless otherwise specified in the permit. (ARM 17.30.702(22))
20. **"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.
21. **"Nondegradation"** means the prevention of a significant change in water quality that lowers the quality of high-quality water for one or more parameters. Also, the prohibition of any increase in discharge that exceeds the limits established under or determined from a permit or approval issued by the Department prior to April 29, 1993.
22. **"Regional Administrator"** means the administrator of the EPA Region with Jurisdiction over federal water pollution control activities in the State of Montana.

23. **"Severe Property Damage"** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
24. **"Sewage Sludge"** means any solid, semi-solid or liquid residue that contains materials removed from domestic sewage during treatment. Sewage sludge includes, but is not limited to, primary and secondary solids and sewage sludge products.
25. **"TIE"** means a toxicity identification evaluation.
26. **"TRE"** means a toxicity reduction evaluation.
27. **"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.
28. **"TSS"** means the parameter total suspended solids.
29. **"Upset"** means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.