

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
1595 WYNKOOP STREET  
DENVER, COLORADO 80202-1129

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. § 1251 et seq; “the Act”),

**the Merit Energy Company**

is authorized to discharge from its **Circle Ridge Field** produced water treatment facility located in the NW ¼ SW ¼ of Section 6, Township 6 North, Range 2 West, latitude 43.525117° N and longitude 109.047594° W, in Fremont County, Wyoming

to a tributary to Coal Draw,

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 July 1, 2020.

This Permit and the authorization to discharge shall expire at midnight, June 30, 2025.

Signed this 21st day of May, 2020

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Authorized Permitting Official

Darcy O’Connor, Director  
Water Division

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## 1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

### 1.1. Definitions.

The *7-day (and weekly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is 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 microbiological organisms unless specified otherwise in the Permit. The 7-day and weekly 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 with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.

The *30-day (and monthly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is 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 microbiological organisms unless specified otherwise in the Permit. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.

*Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

*Composite samples* shall be flow proportioned. The composite sample shall, at a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours, nor more than twenty-four (24) hours. Acceptable methods for the preparation of composite samples are as follows:

- a. Constant time interval between samples, sample volume proportional to flow rate at the time of sampling;
- b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time of the first sample was collected may be used;
- c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
- d. Continuous collection of sample with sample collection rate proportional to flow rate.

*CWA* means the Clean Water Act (formerly referred to as either the Federal Water Pollution Act or the Federal Water Pollution Control Act Amendments of 1972), Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4. In this Permit the CWA may be referred to as "the Act".

*Daily Maximum (Daily Max.)* is the maximum measured value for a pollutant discharged during a calendar day or any 24-hour period that reasonably represents a calendar day for purposes of sampling. For pollutants with daily maximum limitations expressed in units of mass (e.g., kilograms, pounds), the daily maximum is calculated as the total mass of pollutant discharged

over the calendar day or representative 24-hour period. For pollutants with limitations expressed in other units of measurement (e.g., milligrams/liter, parts per billion), the daily maximum is calculated as the average of all measurements of the pollutant over the calendar day or representative 24-hour period. If only one measurement or sample is taken during a calendar day or representative 24-hour period, the single measured value for a pollutant will be considered the daily maximum measurement for that calendar day or representative 24-hour period.

*Daily Minimum (Daily Min.)* is the minimum value allowable in any single sample or instantaneous measurement collected during the course of a day.

*Director* means the Regional Administrator of the EPA Region 8 or an authorized representative.

*EPA* means the United States Environmental Protection Agency.

*E. coli* means *Escherichia coli*.

*Grab sample*, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.

*Instantaneous measurement*, for monitoring requirements, is defined as a single reading, observation, or measurement.

*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.

*Sewage Sludge* is any solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary or advanced wastewater treatment processes; and a material derived from sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

*Stormwater* means storm water runoff, snow melt runoff, and surface runoff and drainage.

*Sufficiently Sensitive* – An analytical chemical-specific test method is sufficiently sensitive when:

- The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or
- The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter.

*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.

*Whole Effluent Toxicity (WET)* is the total toxic effect of an effluent measured directly with a toxicity test.

- 1.2. Description of Discharge Point(s): 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 NPDES Permit is a violation of the Clean Water Act and could subject the person(s) responsible for such discharge to penalties under Section 309 of the Act.

Outfall

<u>Serial Number(s)</u>	<u>Description of Discharge Point(s)</u>
001	Any discharge from the last treatment unit to a tributary to Coal Draw. (Latitude 43.526639° N, Longitude 109.050139° W)
002	Any discharge from the last treatment unit to a tributary to Coal Draw. (Latitude 43.527336° N, Longitude 109.047764° W)

1.3. Specific Limitations and Self-Monitoring Requirements

1.3.1 Effluent Limitations:

1.3.1.1. General Effluent Limitations:

There shall be no discharge of waste pollutants into navigable waters from any source (other than produced water) associated with production, field exploration, drilling, well completion, or well treatment (i.e. drilling muds, drill cuttings, and produced sand).

- 1.3.1.2. Effluent Limitations - Outfall 001 and Outfall 002: **Effective immediately and lasting through the life of this Permit**, the quality of effluent discharged by the facility shall, at a minimum, meet the limitations as set forth below:

Effluent Characteristic	Effluent Limitation	
	30-Day Average <u>a/</u>	Daily Maximum <u>a/</u>
Specific Conductance, $\mu\text{S}/\text{cm}$	N/A	7,500
Total Dissolved Solids, mg/L	N/A	5,000
Chloride, mg/L	N/A	2,000
Sulfate, mg/L	N/A	2,500
Sulfide (as H <sub>2</sub> S), mg/L	200	N/A
Total Radium 226, pCi/L	N/A	60
The concentration of oil and grease shall not exceed 10 mg/L in any sample nor shall there be a visible sheen or cause a visible sheen in the receiving waters or deposits on the bottom or shoreline of the receiving waters.		
The pH of the discharge shall not be less than 6.5 or greater than 9.0 at any time.		
There shall be no discharge of floating solids or visible foam in other than trace amounts		

a/ See Definitions, Part 1.1, for definitions.

1.3.2. Self-Monitoring Requirements - Outfall 001 and Outfall 002.

**Effective immediately and lasting through the effective term of this Permit.** Sampling and test procedures for pollutants listed in this part shall be in accordance with guidelines promulgated by the Administrator in 40 CFR Part 136, as required in 40 CFR § 122.41(j). At a minimum, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form that no discharge or overflow occurred.

Parameter	Frequency	Sample/Monitoring Type <u>a/</u>
Total Flow, MGD <u>b/</u>	Monthly	Instantaneous
Specific Conductance, $\mu\text{S}/\text{cm}$	Monthly	Grab
pH, std units	Monthly	Grab
Oil and Grease, mg/L <u>c/</u>	Weekly	Visual
Sulfide (as $\text{H}_2\text{S}$ ), mg/L <u>d/</u>	Quarterly	Grab
Chloride, mg/L	Quarterly	Grab
Sulfate, mg/L	Quarterly	Grab
Total Radium 226, pCi/L	Quarterly	Grab
Total Dissolved Solids, mg/L	Semi-Annually	Grab
Fluoride, mg/L	Semi-Annually	Grab
Cadmium, $\mu\text{g}/\text{L}$	Semi-Annually	Grab
Mercury, Total, $\mu\text{g}/\text{L}$ <u>e/</u>	Three times after effective date of permit	Grab
Whole Effluent Toxicity, Acute (see Part 1.3.5.)	At least four times after the effective date of permit <u>f/</u>	Grab
Toxic Pollutants Screen (see Part 1.3.3.)	Up to three times after effective date of permit	Grab

a/ See Permit Part 1.1, for definition of terms.

b/ Flow measurements of effluent volume shall be made in such a manner that the Permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate (in million gallons per day (mgd)) during the reporting period and the maximum flow rate observed (in mgd) shall be reported.

c/ A weekly visual observation is required. If a visible sheen is detected, a grab sample shall be taken immediately and analyzed in accordance with the requirements of 40 CFR Part 136. The concentration of oil and grease shall not exceed 10 mg/L in any sample.

d/ The analysis for sulfide (as  $\text{H}_2\text{S}$ ) shall be done with an approved procedure that has a method detection level of no greater than 0.10 mg/L (100  $\mu\text{g}/\text{L}$ ). In the calculation of average sulfide (as  $\text{H}_2\text{S}$ ) concentrations, those analytical results that are less than 0.10 mg/L shall be considered to be zero. If all individual analytical results that would be used in the calculations are less than 0.10 mg/L, then "less than 0.10 mg/L" shall be reported on the discharge monitoring report form. Otherwise, report the maximum value and the calculated average value.

e/ Monitoring periods shall be during the 1<sup>st</sup>, 3<sup>rd</sup> and 5<sup>th</sup> years after the effective date of this Permit. Based on current approved analytical mercury method, Method 1631, Revision E, the method

detection limit (MDL) for mercury is 0.0002 µg/L. If the mercury trigger level of 0.77 µg/L is exceeded during the life of the Permit, the Permittee is required to develop and implement the Mercury Minimization Plan (MMP), as described in Part 1.3.7.

f/ Tests shall be staggered apart with the Toxic Pollutants Screen to ensure more even coverage as described in Part 1.3.5. of the Permit. To the extent practicable, tests shall be timed to provide results that represent seasonal variation in the discharge.

1.3.3. Toxic Pollutants Screen. This Permit requires the Permittee to monitor for the constituents listed below in the toxic pollutants screen up to three times during the life of the Permit. One monitoring event will be during the 1st year after the effective date of this Permit, and the second monitoring event during the 3rd year after the effective date of this Permit. A third monitoring event will be required if the Permittee undertakes a hydraulic fracturing job for a well that sends produced water to this facility. In that instance, the Permittee must complete a third toxic pollutants screen within one week of returning the hydraulically fractured well to production or if a new well is hydraulically fractured. Each of the toxic pollutants screen datasets shall be submitted to the Permit issuing authority at the time of the DMR submittal for that reporting period in which the screening results were obtained. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this Permit.

#### 1.3.3.1. Pollutants to Be Screened

- All Volatile Organic Compounds listed in 40 CFR Part 122, Appendix D, Table II.
- All Base/Neutral and Acid Organic Compounds listed in 40 CFR Part 122, Appendix D, Table II
- All metals listed in 40 CFR Part 122, Appendix D, Table III, except mercury which is included in the regular self-monitoring (Part 1.3.2.).
- Fluoride as listed in 40 CFR Part 122, Appendix D, Table IV

#### 1.3.4. Method Detection Limits.

Monitoring methods must be sufficiently sensitive to meet the Method Detection Limits specified in the following table:

Parameter	Required Detection Limits and Required Units
Arsenic, Total	1 µg/L
Aluminum, Total Recoverable	50 µg/L
Antimony, Total Recoverable	50 µg/L
Beryllium, Total Recoverable	1 µg/L
Cadmium, Total Recoverable	0.1 µg/L
Chromium, Total Recoverable	5 µg/L
Chloride	5 mg/L
Copper, Total Recoverable	5 µg/L
Lead, Total Recoverable	1 µg/L
Magnesium, Total Recoverable	30 µg/L



Manganese, Total Recoverable	2 µg/L
Nickel, Total Recoverable	1 µg/L
Radium 226, Total Recoverable	0.2 pCi/L
Selenium, Total Recoverable	2 µg/L
Silver, Total Recoverable	5 µg/L
Sulfide/Hydrogen Sulfide (S=, HS-)	100 µg/L
Thallium, Total Recoverable	50 µg/L
Zinc, Total Recoverable	2 µg/L
Hardness, Total	10 mg/L as CaCO <sub>3</sub>
Uranium, Total Recoverable	5 µg/L
Gross Alpha and Beta Radiation	0.2 pCi/L
Dissolved Oxygen	1 mg/L
Calcium	10 mg/L
Fluoride	1 mg/L
Volatile Organic Compounds	5 µg/L
Acid & Base/Neutral Organic Compounds	10 µg/L
Chemical Oxygen Demand	3 mg/L

- 1.3.5. Acute Whole Effluent Toxicity Monitoring. At least four times after the effective date of the Permit, the Permittee shall conduct acute static-renewal toxicity tests on a grab sample of the produced water discharge from Outfall 001 and Outfall 002. These tests shall be staggered apart from the Toxic Pollutants Screen required in Section 1.3.3. of this Permit to ensure that the acute static-renewal toxicity tests are spaced apart with the Toxic Pollutants Screens to ensure a more even coverage during the permit term. To the extent practicable, the static-renewal toxicity tests should also be timed to provide results that represent seasonal variation in the discharge. Samples must be chilled to 0° to 6°C.

The static-renewal toxicity tests shall be conducted in accordance with the procedures set out in the latest revision of “Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms”, EPA-821/R-02-012 (October 2002). Acute WET tests shall be performed on two species; *Daphnia magna*, EPA 2021.0, as a 48-hr, static-renewal definitive test with renewals at each 24-hr interval, and *Pimephales promelas*, EPA 2002.0, as a 96-hour static-renewal definitive test with renewals at each 24-hr interval. Both tests shall utilize the standard dilution series of 100%, 75%, 50%, 25%, 12.5% and a 0 control, with moderately hard synthetic laboratory water for dilutions with test temperature set at 25°C.

The Permittee or a laboratory performing the toxicity tests on behalf of the Permittee is allowed to utilize the sample preparation procedure described in Section 9.1.7 of the Acute Method to remove sulfide (as H<sub>2</sub>S) from the discharge sample. This procedure may only be performed in the laboratory testing facility. The dissolved oxygen (DO) concentration in the samples should be near saturation prior to laboratory analysis. Aeration may be used to bring the DO and other gases into equilibrium with air, minimize oxygen demand, and stabilize the pH.

Acute toxicity occurs when 50 percent or more mortality is observed for either species at any effluent concentration. If more than 10 percent control mortality occurs, the test is not valid. The test shall be repeated until satisfactory control survival is achieved.

Regular acute toxicity test results shall be reported on the Discharge Monitoring Report (DMR) submitted for the reporting period when the acute toxicity monitoring was conducted. A laboratory reporting form consistent with the "Suggested R8 WET Toxicity Test Report Format", including all chemical and physical data as specified shall also be submitted to the Permit issuing authority as an attachment to the DMR. Copies of the form may be downloaded from the Region 8 web page at

<https://www.epa.gov/sites/production/files/2016-01/wet-laboratory-reporting-forms.xlsm>.

If acute toxicity occurs in a test, the Permittee shall do the following:

- (1) Notify the Permit issuing authority within 48 hours of when the Permittee learned of the initial test failure;
- (2) Promptly take all reasonable measures necessary to immediately reduce toxicity; and
- (3) Initiate an additional test within two (2) weeks of the date of when the Permittee learned of the test failure. If only one species fails, retesting may be limited to this species.

The Permit issuing authority may waive either or both requirements (2) or (3) with justification (e.g., the toxicity has been ongoing and the Permittee is in the process of conducting a toxicity identification evaluation/toxicity reduction evaluation as required in Part 1.3.6. of this Permit).

Should acute toxicity occur in the second test, the Permittee shall immediately begin testing once a month until further notified by the Permit issuing authority. Accelerated monthly testing is only required for the species that failed the initial and second tests.

In addition to the accelerated monitoring, the Permittee shall perform a toxicity identification evaluation/toxicity reduction evaluation as required by Part 1.3.6 of this Permit to establish the cause of the toxicity, locate the source(s) of the toxicity, and develop control of, or treatment for the toxicity.

Test results from additional toxicity testing conducted (i.e. two week retest, monthly testing and TIE/TRE testing) shall be reported by the 28<sup>th</sup> of the month following the test through NetDMR and to the following address:

Wastewater Section (8WD-CWW)  
Attn: Regional WET Coordinator  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

- 1.3.6. Toxicity Identification Evaluation/Toxicity Reduction Evaluation (TIE/TRE). Should acute toxicity occur in the second test following failure in the first test, the Permittee shall initiate corrective actions as follows:

- 1.3.6.1. Where the source of toxicity is known, the Permittee shall:
- 1.3.6.1.1. Submit a TRE plan and schedule to eliminate acute toxicity in accordance with the whole effluent toxicity definition in Part 1.1. The plan and schedule shall be submitted to the Permit issuing authority **within 30 days** of the date of when the Permittee learned of the second test failure.
- 1.3.6.1.2. The EPA will review the TRE plan and schedule, and may provide written comments to the Permittee. A final TRE plan and schedule that addresses any EPA comments, if provided, shall be submitted to the Permit issuing authority prior to the initiation of any activities specified in the TRE plan and schedule.
- 1.3.6.1.3. Initiate the TRE plan **within 75 days** of the date of when the Permittee learned of the second test failure.
- 1.3.6.1.4. Alternately, if the source of toxicity is known and can immediately be controlled through operational changes, and if follow-up testing indicates an absence of whole effluent toxicity, the Permittee shall provide a written request for relief from accelerated testing and/or completion of a TRE.
- 1.3.6.1.5. Alternately, if the source of toxicity is known but the operational changes or site improvements as identified in the TRE plan and schedule, necessary to remove the toxicity require an extended period to implement, the Permittee may provide a written request for relief from accelerated testing until operational changes or site improvements are complete and retesting can begin.
- 1.3.6.2. Where the source is unknown and the toxicity cannot be immediately controlled through operational changes, the Permittee shall:
- 1.3.6.2.1. Initiate a TIE and develop and implement a TRE plan and schedule to eliminate acute toxicity in accordance with the whole effluent toxicity definition in Part 1.1 in accordance with the following schedule:
- 1.3.6.2.1.1. Submit a toxicity reduction (TRE) study plan detailing the toxicity reduction procedures to be employed and the schedule for completing the plan. The plan and schedule shall be submitted to the Permit issuing authority **within 45 days** of the date of when the Permittee learned of the second test failure. The EPA publications listed below shall be considered in developing the plan and schedule. Copies of the publications may be downloaded from the EPA WET web page.
- "Methods for Aquatic Toxicity Identification Evaluations, Phase I Toxicity Characterization Procedures", Second Edition, EPA/600/6-91/003, February 1991.
- "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity", EPA/600/R-92/080, September 1993.
- "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity", EPA/600/R-92 /081, September 1993.
- "Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants", EPA/833B-99/002, August 1999.
- "Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations (TREs)", EPA/600/2-88/070, April 1989.

- 1.3.6.2.1.2. The EPA will review the TRE plan and schedule, and may provide written comments to the Permittee. A final TRE plan and schedule that addresses any EPA comments, if provided, shall be submitted to the Permit issuing authority prior to the initiation of any activities specified in the TRE plan and schedule.
- 1.3.6.2.1.3. Initiate the TRE plan **within 90 days** of the date of when the Permittee learned of the second test failure.
- 1.3.6.3. The Permittee shall comply with the final schedule for implementing the TRE plan; failure to comply with the schedule is a violation of the Permit. Any modification to the TIE/TRE plan schedule must be submitted to the Permit issuing authority for review prior to implementation of the modification.
- 1.3.6.4. The Permittee shall submit quarterly TIE/TRE progress reports, including summary of findings, corrective actions required, and data generated in accordance with the final schedule for implementing the TRE plan, to the Permit issuing authority.
- 1.3.6.5. The Permittee shall complete required construction, if necessary, to implement the TRE controls as described in the final TRE report in accordance with the final schedule for implementing the TRE plan.
- 1.3.6.6. The Permittee shall eliminate acute toxicity in accordance with the whole effluent toxicity definition in Part 1.1 and in accordance with the final schedule for implementing the TRE plan as soon as possible, but no later than the final compliance date specified in the final TRE plan and schedule.
- 1.3.6.7. Should the results for ten consecutive monthly acute tests indicate no acute toxicity prior to the end of the TRE scheduled completion, the TRE may be considered complete. The Permittee may provide a written request to the Permit issuing authority, requesting a reduction to regular quarterly whole effluent toxicity monitoring. The Permit issuing authority may approve or deny the request based on the results and other available information without an additional public notice. If the request is approved, the regular test procedures are to be the same as specified above (Part 1.3.5.) for both *Daphnia magna* and *Pimephales promelas*, unless otherwise specified in writing by the Permit issuing authority.
- 1.3.6.8. Upon completion of the scheduled TIE/TRE, the Permittee shall provide a written request to return to regular whole effluent toxicity monitoring and reporting as specified in Part 1.3.2 of the Permit, to the Permit issuing authority. If the request is approved, the regular test procedures are to be the same as specified above (Part 1.3.5.) for both *Daphnia magna* and *Pimephales promelas*, unless otherwise specified in writing by the Permit issuing authority.
- 1.3.7. Mercury Minimization Plan (MMP). Within 90 days following the trigger value of 0.77 µg/L or greater, the Permittee is required to develop and implement an MMP tailored to the facility's potential to discharge mercury. The MMP shall be available upon request by the Permit issuing authority. At a minimum, the MMP shall include the following:
- Evaluation of existing best management plans or spill prevention and containment control plans;
  - Identification and evaluation of current and potential mercury sources;

- Monitoring to confirm current or potential mercury sources;
- Identification of potential methods for reducing or eliminating mercury, including material substitution, material recovery, spill control and collection, waste recycling, process modifications, good housekeeping and disposal practices;
- Implementation of appropriate minimization measures identified in the MMP; and
- Effluent monitoring using sufficiently sensitive analytical methods to verify the effectiveness of the MMP.

#### 1.3.8. Chemical Inventory Reporting Requirement

The Permittee shall maintain an inventory of the quantities and concentrations of the specific chemicals used to formulate well treatment and workover fluids (defined below). Unless these fluids are segregated, the Permittee shall submit the following information with the DMR, to the extent such information is obtainable after making reasonable inquiries to suppliers: all chemical additives in the well treatment or workover fluid, their trade names, purposes, supplier, CAS number, concentrations and amounts. The type of operation that generated the well treatment or well workover fluids shall also be reported. To the extent a Safety Data Sheet (SDS) contains the information required above, it may be submitted for purposes of complying with this provision. For purposes of this provision, well treatment and workover fluids will be considered segregated if the Permittee takes steps to recover a volume of fluid equivalent to the volume of the well treatment or workover fluid used in the job.

“Well treatment fluids” means any fluid used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing strata after a well has been drilled.

“Well workover fluids” means salt solutions, weighted brines, polymers, or other specialty additives used in a producing well to allow for maintenance, repair or abandonment procedures.”

## 2. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- 2.1. Representative Sampling: Samples taken in compliance with the monitoring requirements established under Part 1.3 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.
- 2.2. Monitoring Procedures: Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this Permit. The permittee must select a test procedure that is Sufficiently Sensitive for all monitoring conducted in accordance with this Permit.
- 2.3. Penalties for Tampering: The Act provides that any person who knowingly falsifies, tampers with, or 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 two years, or by both. Second conviction is punishable by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.
- 2.4. Reporting of Monitoring Results: With the effective date of this Permit, the Permittee must electronically report all data at the frequencies listed in the table of Part 1.3.2 with semi-annually

DMR submittal required, using NetDMR. Electronic submissions by Permittees must be sent to the EPA Region 8 no later than the 28th of the month following the completed reporting period. The Permittee must sign and certify all electronic submissions in accordance with the requirements of Part 4.7 of this Permit (“Signatory Requirements”). NetDMR is accessed from the internet at <https://netdmr.zendesk.com/home>.

In addition, the Permittee must submit a copy of the DMR to the Eastern Shoshone and Northern Arapahoe Tribes. The Permittee may submit a copy to the Eastern Shoshone and Northern Arapahoe Tribes by one of three ways: 1. a paper copy may be mailed. 2. The email addresses for the Eastern Shoshone and Northern Arapahoe Tribes may be added to the electronic submittal through NetDMR, or 3. The Permittee may provide the Eastern Shoshone and Northern Arapahoe Tribes viewing rights through NetDMR.

The DMRs are due semi-annually by the dates listed in the Table below. The DMRs shall not be submitted until the listed Compliance Monitoring Period is complete.

#### Reporting Frequency

Compliance Monitoring Period	Due Date
January through June	July 28
July through December	January 28

Legible copies of all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part 4.7), and submitted to the EPA Region 8 Policy, Information Management & Environmental Justice Program and the Tribes at the addresses given below:

original to: U.S. EPA, Region 8  
 Attention: DMR Coordinator (8ENF-W)  
 1595 Wynkoop Street  
 Denver, Colorado 80202-1129

copy to: Eastern Shoshone Business Council  
 P.O. Box 538  
 Fort Washakie, WY 82514

Northern Arapaho Business Council  
 P.O. Box 396  
 Fort Washakie, WY 82514

- 2.5. Additional Monitoring by the Permittee: If the Permittee monitors any pollutant more frequently than required by this Permit, using test procedures approved under 40 CFR Part 136, 40 CFR Part 503, or as specified in this Permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.
- 2.6. Records Contents: Records of monitoring information shall include:
- 2.6.1. The date, exact place, and time of sampling or measurements;

- 2.6.2. The initials or name(s) of the individual(s) who performed the sampling or measurements;
  - 2.6.3. The date(s) analyses were performed;
  - 2.6.4. The time(s) analyses were initiated;
  - 2.6.5. The initials or name(s) of individual(s) who performed the analyses;
  - 2.6.6. References and written procedures, when available, for the analytical techniques or methods used; and,
  - 2.6.7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.
- 2.7. 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 Director at any time. Data collected on site, data used to prepare the DMR, copies of Discharge Monitoring Reports, and a copy of this NPDES Permit must be maintained on site.
- 2.8. Twenty-four Hour Notice of Noncompliance Reporting
- 2.8.1. The Permittee shall report any 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 EPA, Region 8, Site Assessment/Emergency Response Program at (303) 293-1788 and the Eastern Shoshone Business Council (307) 332-3532, and the Northern Arapaho Business Council (307) 332-6120.
  - 2.8.2. The following occurrences of noncompliance shall be reported by telephone to the EPA, Region 8, NPDES and Wetland Enforcement Section at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time), the Eastern Shoshone Business Council (307) 332-3532 and the Northern Arapaho Business Council (307) 332-6120 (8:00 a.m. - 4:30 p.m. Central Time) by the first workday following the day the Permittee became aware of the circumstances.
    - 2.8.2.1. Any unanticipated bypass which exceeds any effluent limitation in the Permit (See Part 3.7, Bypass of Treatment Facilities.);
    - 2.8.2.2. Any upset which exceeds any effluent limitation in the Permit (See Part 3.8, Upset Conditions.); or,
    - 2.8.2.3. Violation of a maximum daily discharge limitation for any of the pollutants listed in Part 1.3.1.2 of the Permit.
  - 2.8.3. In addition to the notifications described in Part 2.8.1 and Part 2.8.2., a written submission shall also be provided to the EPA, Enforcement and Compliance Assurance Division and to the Eastern Shoshone Business Council and the Northern Arapaho Business Council within five days

of the time that the Permittee becomes aware of the circumstances. The written submission shall contain:

- 2.8.3.1. A description of the noncompliance and its cause;
- 2.8.3.2. The period of noncompliance, including exact dates and times;
- 2.8.3.3. The estimated time noncompliance is expected to continue if it has not been corrected; and,
- 2.8.3.4. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- 2.8.4. The Director may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under Part 2.8.2 above, if the incident has been orally reported in accordance with the requirements of Part 2.8.2.
- 2.8.5. Reports shall be submitted to the addresses in Part 2.4, Reporting of Monitoring Results.
- 2.9. 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 2.4 are submitted. The reports shall contain the information listed in Part 2.8.3.
- 2.10. Inspection and Entry. The Permittee shall allow the Regional Administrator, or authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) or the Eastern Shoshone Business Council and the Northern Arapaho Business Council, upon presentation of credentials and other documents as may be required by law, to:
  - 2.10.1. 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;
  - 2.10.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
  - 2.10.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and,
  - 2.10.4. Sample or monitor at reasonable times, for the purpose of assuring Permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

### 3. COMPLIANCE RESPONSIBILITIES

- 3.1. Duty to Comply: The Permittee must comply with all conditions of this Permit. Any failure to comply with the Permit may constitute a violation of the Clean Water Act and may be grounds for enforcement action, including, but not limited to permit termination, revocation and reissuance, modification, or denial of a permit renewal application. The Permittee shall give the Director advanced notice of any planned changes at the permitted facility that will change any discharge from the facility, or of any activity that may result in failure to comply with permit conditions.



- 3.2. Penalties for Violations of Permit Conditions: The Clean Water Act provides for specified civil and criminal monetary penalties for violations of its provisions. However, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, requires the EPA to adjust the civil monetary penalties for inflation. The most recent civil monetary penalty inflation adjustment occurred on January 10, 2018 (83 Fed. Reg. 1190-1194). As of January 15, 2018, the civil and criminal penalties for violations of the Act (including permit conditions) are as follows:
- 3.2.1. Any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$55,800 per day for each violation.
  - 3.2.2. Any person who *negligently* violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment for not more than one year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or both.
  - 3.2.3. Any person who *knowingly* violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than three years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment for not more than six years, or both.
  - 3.2.4. Any person who *knowingly* violates Section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment for not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment for not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
  - 3.2.5. Any person may be assessed an administrative penalty by the Administrator for violating Section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of this Act. Where an administrative enforcement action is brought for a Class I civil penalty, the assessed penalty may not exceed \$22,320 per violation, with a maximum amount not to exceed \$55,800. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty

may not exceed \$22,320 per day for each day during which the violation continues, with the maximum amount not to exceed \$267,415.

- 3.3. 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.
- 3.4. 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.
- 3.5. 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, at a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.
  - 3.5.1 The Permittee shall, as soon as reasonable and practicable, but no later than six (6) months after the effective date of this Permit, do the following as part of the operation and maintenance program for the wastewater treatment facility:
    - 3.5.1.1. Have a current O & M Manual(s) that describes the proper operational procedures and maintenance requirements of the wastewater treatment facility;
    - 3.5.1.2. Have the O & M Manual(s) readily available to the operator of the wastewater treatment facility and require that the operator become familiar with the manual(s) and any updates;
    - 3.5.1.3. Have a schedule(s) for routine operation and maintenance activities at the wastewater treatment facility; and,
    - 3.5.1.4. Require the operator to perform the routine operation and maintenance requirements in accordance with the schedule(s).
  - 3.5.2. The Permittee shall maintain a **daily log in either paper or electronic format** containing a summary record of all operation and maintenance activities at the wastewater treatment facility. At a minimum, the **log** shall include the following information:
    - 3.5.2.1. Date and time;
    - 3.5.2.2. Name and title of person(s) making the log entry;
    - 3.5.2.3. Name of the persons(s) performing the activity;
    - 3.5.2.4. A brief description of the activity; and,

3.5.2.5. Other information, as appropriate.

The Permittee shall maintain the log in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the Eastern Shoshone Business Council and the Northern Arapaho Business Council.

3.6. Removed Substances: Collected screenings, grit, solids, sludge (including sewage sludge), or other pollutants removed in the course of treatment shall be buried or disposed in a manner consistent with all applicable federal and tribal regulations (e.g., 40 CFR Part 257, 40 CFR Part 258, 40 CFR Part 503). Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the United States.

3.7. Bypass of Treatment Facilities.

3.7.1. 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 3.7.2 and 3.7.3.

3.7.2. Notice:

3.7.2.1. 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 to the U.S. EPA Region 8, NPDES and Wetland Enforcement Section, and the Eastern Shoshone Business Council and the Northern Arapaho Business Council.

3.7.2.2. Unanticipated bypass. The Permittee shall submit notice of an unanticipated bypass as required under Part 2.8, Twenty-four Hour Noncompliance Reporting, to the U.S. EPA Region 8, NPDES and Wetland Enforcement Section, and the Eastern Shoshone Business Council and the Northern Arapaho Business Council.

3.7.3. Prohibition of bypass.

3.7.3.1. Bypass is prohibited and the Director may take enforcement action against a Permittee for a bypass, unless:

3.7.3.1.1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

3.7.3.1.2. 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,

3.7.3.1.3. The Permittee submitted notices as required under Part 3.7.2.

3.7.3.2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part 3.7.3.1.

3.8. Upset Conditions.

3.8.1. 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 3.8.2 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).

3.8.2. 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:

3.8.2.1. An upset occurred and that the Permittee can identify the cause(s) of the upset;

3.8.2.2. The permitted facility was at the time being properly operated;

3.8.2.3. The Permittee submitted notice of the upset as required under Part 2.8, Twenty-four Hour Notice of Noncompliance Reporting; and,

3.8.2.4. The Permittee complied with any remedial measures required under Part 3.4, Duty to Mitigate.

3.8.3. Burden of proof: In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

3.9. 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.

3.10. Changes in Discharge of Toxic Substances: Notification shall be provided to the Director as soon as the Permittee knows of, or has reason to believe:

3.10.1. 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":

3.10.1.1. One hundred micrograms per liter (100 µg/L);

3.10.1.2. 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 mg/L) for antimony;

- 3.10.1.3. 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,
- 3.10.1.4. The level established by the Director in accordance with 40 CFR § 122.44(f).
- 3.10.2. 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":
  - 3.10.2.1. Five hundred micrograms per liter (500 µg/L);
  - 3.10.2.2. One milligram per liter (1 mg/L) for antimony;
  - 3.10.2.3. 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,
  - 3.10.2.4. The level established by the Director in accordance with 40 CFR § 122.44(f).

#### 4. GENERAL REQUIREMENTS

- 4.1. Planned Changes: The Permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
  - 4.1.1. The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the Permit; or,
  - 4.1.2. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.
- 4.2. Anticipated Noncompliance: The Permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- 4.3. 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.
- 4.4. 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 should be submitted at least 180 days before the expiration date of this Permit.
- 4.5. Duty to Provide Information: The Permittee shall furnish to the Director, within a reasonable time, any information which the Director 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 Director, upon request, copies of records required to be kept by this Permit.

- 4.6. 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 Director, it shall promptly submit such facts or information.
- 4.7. Signatory Requirements: All applications, reports or information submitted to the Director shall be signed and certified.
- 4.7.1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
- 4.7.2. All reports required by the Permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- 4.7.2.1. The authorization is made in writing by a person described above and submitted to the Director; and,
- 4.7.2.2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- 4.7.3. Changes to authorization: If an authorization under Part 4.7.2 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 4.7.2 must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 4.7.4. 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."
- 4.8. Penalties for Falsification of Reports: The 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 \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- 4.9. Availability of Reports: Except for data determined to be confidential under 40 CFR Part 2, Subpart B, all reports prepared in accordance with the terms of this Permit shall be available for

public inspection at the offices of the Director. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

- 4.10. 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 Act.
- 4.11. Property Rights: The issuance of this Permit does not convey any property 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, tribal or local laws or regulations.
- 4.12. 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.
- 4.13. Transfers: This Permit may be automatically transferred to a new Permittee if:
  - 4.13.1. The current Permittee notifies the Director at least 30 days in advance of the proposed transfer date;
  - 4.13.2. 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; and,
  - 4.13.3. The Director does not notify the existing Permittee and the proposed new Permittee of his or her intent to modify, or revoke and reissue the Permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part 4.13.2.
- 4.14. Permittees in Indian Country. The EPA has not approved the Eastern Shoshone Tribe or the Northern Arapaho Tribe, or the State of Wyoming to implement the CWA NPDES program on the Wind River Indian Reservation. "Indian country" is defined at 18 U.S.C. § 1151. Therefore, the EPA directly implements the CWA NPDES program on the Wind River Indian Reservation.
- 4.15. Reopener Provision: 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:
  - 4.15.1. Water Quality Requirements: The water quality requirements 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.
  - 4.15.2. Wasteload Allocation: A wasteload allocation is developed and approved by the Wind River Indian Reservation and/or the EPA for incorporation in this Permit.
  - 4.15.3. 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.

- 4.16. Toxicity Limitation-Reopener Provision: This Permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity limitations if whole effluent toxicity is detected in the discharge.
- 4.17 Mercury Limitation – Reopener Provision: This Permit may be reopened and modified (following proper administrative procedures) if the Mercury Minimization Plan is not found to be effective or if a water column of the fish tissue criterion is developed.