

**Fact Sheet**  
**General Permit for Wetland Mitigation**  
**Permit Number WYWET0000**

**REGULATORY BASIS:** In 1972, the federal Clean Water Act (CWA) was amended to provide that the discharge of any pollutants from a point source into surface waters of the United States had to be regulated through the issuance of a NPDES permit. Under the CWA, states were given the authority to assume "primacy" to administer the NPDES program and issue such permits. The State of Wyoming obtained primacy in 1974.

Chapter 2, Wyoming Water Quality Rules and Regulations, provides the mechanism for general permitting under the WYPDES (Wyoming Pollutant Discharge Elimination System) program. The general permit is an administrative "tool" which can be used to issue a large number of permits with a relatively small administrative burden. Under the general permitting approach, a single generic permit is issued to cover a large number of facilities conducting similar activities within a common geographic area.

The most recent revision of Chapter 2, Wyoming Water Quality Rules and Regulations, was effective as of November 4, 2004, and the Wyoming "National Pollutant Discharge Elimination System" (NPDES) program was renamed the "Wyoming Pollutant Discharge Elimination System" (WYPDES) program. Chapter 2 states that owners or operators of any point source within the State of Wyoming who propose to commence discharging wastes into the waters of the state must file WYPDES permit applications and obtain a WYPDES permit. The revised Chapter 2 also includes mitigation requirements for activities that cause the destruction, damage, or impairment of naturally occurring isolated wetlands or man-made isolated wetlands used to mitigate the loss of naturally occurring wetlands, the purpose of this general permit.

**General Permit for Wetland Mitigation:** This general permit for isolated wetlands mitigation authorizes the discharge of fill or dredge material into 1) naturally occurring *isolated* wetlands or 2) man-made *isolated* wetlands used to mitigate the loss of naturally occurring wetlands. According to the Clean Water Act, wetlands may be destroyed, but their loss must be compensated for by the restoration, creation, or enhancement of other wetlands. In theory, this strategy should result in "no net loss" of wetlands. "Mitigation" means all actions to avoid, minimize, restore, and compensate for ecological functions or wetlands values lost (35-11-103). This permit applies to the loss or destruction of greater than a cumulative one (1) acre of isolated wetland habitat for the total project.

"Isolated wetlands" means wetlands as defined by the Environmental Quality Act and Part I of this permit which do not meet the federal definition of waters of the United States but meet the state's definition of waters of the state as defined in the Environmental Quality Act and Part I of this permit. "Isolated water" means any surface water of the state which is not connected by a defined channel to a surface tributary system and is not within the 100 year flood plain of any river or stream and does not occupy the fringe of any still water body which is connected by a defined channel to a surface tributary system. Any discharge of dredge or fill material into wetlands isolated from Class 1, 2, or 3 waters (Per Chapter 1, Wyoming Water Quality Rules and Regulations) requires authorization under this permit. Those activities which are subject to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject to a permit or authorization from the Wyoming Department of Environmental Quality, Land Quality Division, are exempt from this requirement.

Prospective permittees shall file with the administrator a notice of intent (NOI) for coverage under an isolated wetlands mitigation general permit and a Mitigation Plan. Such Notices of Intent and Mitigation Plans must be filed and approved by the administrator prior to the commencement of the activity which will cause the wetland loss. The NOI requires characterization of 1) the activity which will impair an isolated wetland and 2) a Mitigation Plan for mitigating wetlands to offset the loss of wetland functions and values. The administrator shall approve all Mitigation Plans utilizing Wyoming Wetland Banked Credits in accordance with the "Wyoming Statewide Wetland Mitigation Bank - Guidelines for Interpretation and Implementation," April 1995, and consider alternate plans on a case-by-case basis. Facilities must implement the provisions of their Mitigation Plan as a condition of this permit.

The DEQ will review the NOI and Mitigation Plan and determine if the proposed activity is eligible for coverage under this permit. If the proposed activity is eligible for coverage under the general permit, the DEQ will send the operator notification, through a written facility certification form, that coverage has been granted.

Part I of the permit includes monitoring requirements. Monitoring reports are to be submitted to the Wyoming DEQ/WQD WYPDES Program by January 28, of each year. The permit also includes criteria for termination of the permit.

**Activities Not Covered By This Permit:**

**Permit By Rule:** This general permit does *not* apply to activity that affects one acre or less. According to permit by rule per Chapter 2, discharges of dredged or fill material into naturally occurring isolated wetlands or man-made isolated wetlands used to mitigate the loss of naturally occurring wetlands which cause the loss or destruction of one acre or less of wetland habitat for the total project are permitted by rule and *do not require coverage* under this general permit.

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The permit by rule discharge must also be in accordance with the following requirements: There shall be no discharge of solid wastes (as defined in Chapter 1, Section 1 [f] of the Department's Hazardous Waste Management Rules and Regulations), hazardous wastes, hazardous materials, hazardous constituents, radioactive material or any toxic substance.

This permit by rule is not applicable to those activities which are subject to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject to a permit or authorization from the Wyoming Department of Environmental Quality, Land Quality Division.

**Other Activities Not Covered by this Permit:**

- Those activities which are subject to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject to a permit or authorization from the Wyoming Department of Environmental Quality, Land Quality Division are not covered under this general permit.
- The discharge of chemicals, fuel, lubricants, sewage, and waste materials into the isolated wetlands are prohibited. Only clean fill material, free of toxic constituents in other than trace quantities shall be used.
- Wetland loss or mitigation impacting Class 1 surface waters are not authorized under this permit. The permit is scheduled to expire on April 30, 2016.

Once the isolated wetlands discharge has ceased and wetland mitigation is accomplished, a Notice of Termination must be submitted to the DEQ. Following a review, the Administrator will terminate coverage, deny termination, or request additional information.

If you have any questions or need additional information, contact Roland Peterson, WYPDES Permitting, at 307-777-7090.

AUTHORIZATION FOR WETLAND MITIGATION UNDER THE WYOMING POLLUTANT DISCHARGE

ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, (hereinafter referred to as "the Act"), and the Wyoming Environmental Quality Act, facilities located within the State of Wyoming which involve wetland mitigation activities are hereby authorized to perform wetland mitigation in the State of Wyoming in accordance with the requirements of this permit.

This general WYPDES permit is issued under the provisions of Wyoming Water Quality Rules and Regulations Chapters 1 and 2.

This permit shall become effective on the date of issuance below.

This permit shall expire on April 30, 2016.



\_\_\_\_\_  
John F. Wagner, Administrator  
Water Quality Division



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John V. Corra, Director  
Department of Environmental Quality

Date of Issuance:

9-20-11

PART I

1. AUTHORIZATION TO DISCHARGE

1.1. Coverage Under This Permit

1.1.1. Permit Area

This permit covers all areas within the State of Wyoming except areas within the Wind River Indian Reservation where the state does not have jurisdiction.

2. Activities Covered Under This Permit

2.1. This permit may provide coverage for any person who proposes a point source discharge of dredged or fill material into a naturally occurring isolated wetland or man-made isolated wetlands used to mitigate the loss of a naturally occurring wetland in such a manner that causes the loss or destruction of greater than a cumulative one (1) acre of wetland habitat for the total project;

3. Activities Not Covered Under This Permit:

3.1. Permit by rule

Discharges of dredged or fill material into naturally occurring isolated wetlands or man-made isolated wetlands used to mitigate the loss of naturally occurring wetlands which cause the loss or destruction of *one acre or less* of wetland habitat for the total project are permitted by rule and do not require coverage under this general permit.

3.1.1. The permit by rule discharge must be in accordance with the following requirements:

3.1.1.1. There shall be no discharge of solid wastes (as defined in Chapter 1, Section 1 [f] of the Department's Hazardous Waste Management Rules and Regulations), hazardous wastes, hazardous materials, hazardous constituents, radioactive material or any toxic substance.

3.1.1.2. This permit by rule is not applicable to those activities which are subject to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject to a permit or authorization from the Wyoming Department of Environmental Quality, Land Quality Division.

3.2. Those activities which are subject to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject to a permit or authorization from the Wyoming Department of Environmental Quality, Land Quality Division are not covered under this general permit.

3.3. The discharge of chemicals, fuel, lubricants, sewage, and waste materials into the isolated wetlands are prohibited. Only clean fill material, free of toxic constituents in other than trace quantities shall be used

3.4. Wetland loss or mitigation impacting Class 1 surface waters are not authorized under this permit.

4. Definitions

4.1. "**Compensatory mitigation**" means replacement, substitution or enhancement of ecological functions and wetland values to offset anticipated losses of those values caused by filling, draining or otherwise damaging a wetland;

- 4.2. **"Ecological function"** means the ability of an area to support vegetation and fish and wildlife populations, recharge aquifers, stabilize base flows, attenuate flooding, trap sediment and remove or transform nutrients and other pollutants;
- 4.3. **"Finally Stabilized"** means that all soil disturbing activities at the site have been completed, and a uniform perennial vegetative cover with a density of 70% of the native background hydrophytic vegetative cover for the area has been established on the mitigated wetland.
- 4.4. **"Isolated water"** means any surface water of the state which is not connected by a defined channel to a surface tributary system and is not within the 100 year flood plain of any river or stream and does not occupy the fringe of any still water body which is connected by a defined channel to a surface tributary system.
- 4.5. **"Isolated wetlands"** means wetlands as defined by the Environmental Quality Act and Part I of this permit which do not meet the federal definition of waters of the United States but meet the state's definition of waters of the state as defined in the Environmental Quality Act and Part I of this permit.
- 4.6. **"Man-made wetlands"** means those wetlands that are created intentionally or occur incidental to human activities. This includes any enhancement made to an existing wetland which increases its function or value.
- 4.7. **"Mitigation"** means all actions to avoid, minimize, restore and compensate for ecological functions or wetland values lost;
- 4.8. **"Natural wetlands"** means those wetlands that occur independently of human manipulation of the landscape;
- 4.9. **"Waters of the state"** means all surface and ground water, including waters associated with wetlands, within Wyoming;  
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- 4.10. **"Wetland value"** means those socially significant attributes of wetlands such as uniqueness/heritage, recreation, aesthetics and a variety of economic values.
- 4.11. **"Wetlands"** means those areas in Wyoming having all three (3) essential characteristics:  
(1) Hydric soils; and  
(2) Hydrophytic vegetation;  
(3) Wetland hydrology.

## 5. Request for Authorization

### 5.1. Notice of Intent and Mitigation Plan

- 5.1.1. In order to be considered eligible for authorization to discharge dredge and fill material to isolated wetlands under the terms and conditions of this permit, the owner, operator, and/or authorized agent of any facility desiring to discharge dredge and fill material to wetlands must file with the administrator a complete notice of intent (NOI) for coverage under an isolated wetlands mitigation general permit and a Mitigation Plan designed to offset the loss of wetland functions and values on a form provided by the Administrator (See Appendix A).
- 5.1.2. The NOI and Mitigation Plan must be submitted at least 30 days prior to the first anticipated date of discharge which will cause wetland loss and at a minimum must contain the following information in addition to a Mitigation Plan that is designed to offset the loss of wetland function and values.
- 5.1.3. Facilities must implement the provisions of their Mitigation Plan as a condition of this permit.

5.2. NOI Contents

- 5.2.1. Name, address, and phone number of the applicant;
- 5.2.2. Location and description of the isolated wetland that will be impacted, including the area of impact in acres, type of wetland, probable functional values, and source of water. The location of the wetland shall be reported in both the legal description (Quarter/Quarter, Section Township, and Range) and geographical (latitude/ and longitude in decimal degrees);
- 5.2.3. Name(s) and address(s) of property owners of the impacted property (ies);
- 5.2.4. Name(s) and address(s) of adjacent property owners who may be affected by the activity;
- 5.2.5. Applicant status as a federal, state, private, public, or other entity;
- 5.2.6. The NOI must be signed in accordance with Part II, Paragraph 1.11 of the permit;
- 5.2.7. The expected volume of dredge or fill material expected to be discharged into the wetland.

5.3. Mitigation Plan Contents at a minimum must contain the following:

- 5.3.1. Name, address, and phone number of the applicant;
- 5.3.2. Location and description of the isolated wetland that will be impacted, including the area of impact in acres, type of wetland, probable functional values, and source of water. The location of the wetland shall be reported in both the legal description (Quarter/Quarter, Section Township, and Range) and geographical (latitude/ and longitude in decimal degrees);
- 5.3.3. Delineation of the impacted wetland using the U.S. Army Corps of Engineer's 1987 wetland delineation manual including maps, drawings, data sheets and conclusions. Regional supplements to the Corps manual should also be used where relevant. These include the "Arid West", "Great Plains" and "Western Mountains, Valleys and Coast" supplements.
- 5.3.4. Name(s) and address(s) of adjacent property owners who may be affected by the activity;
- 5.3.5. Name(s) and address(s) of property owners of the impacted property (ies), if property owner is different than the applicant;
- 5.3.6. Description of the activity causing the wetland impact;
- 5.3.7. Description of actions to be taken to fully offset damage to the impacted wetland;
- 5.3.8. Where the proposed mitigation involves the construction of replacement wetlands or destruction and/or the enhancement of existing wetlands the location and description of the mitigation area including the name and address of the landowner, construction plans, maps, water sources and construction time tables;
- 5.3.9. Where the proposed mitigation involves the use of wetland credits recorded in the "Wyoming Statewide Wetland Mitigation Bank" a written authorization signed by the credit owner referencing the wetland credit file number and the amount of credit authorized for use;
- 5.3.10. List of related permissions and/or authorizations necessary to successfully complete the planned mitigation including but not limited to water rights, easements, and associated federal, state, or local permits.

5.3.11. If requested by the administrator or the administrator's authorized agent, the permittee shall provide access to, physical locations associated with this permit including, but not limited to, any waters of the state associated with the permit at the point of discharge.

5.3.12. Photographs of each are of wetland impact displaying the condition and size of the wetland prior to discharge activities.

5.4. The NOI and Mitigation Plan shall be submitted to:

Wyoming Department of Environmental Quality Water Quality Division –  
WYPDES Program  
122 West 25th Street (4th Floor)  
Cheyenne, Wyoming 82002

5.4.1. Discharge of dredge and fill material to isolated wetlands, under the terms and conditions of this permit, receive coverage when the Administrator provides a written authorization to the applicant that the Notice of Intent has been accepted and the permitted activity is covered under the general permit. In the case of disapproval, the Administrator shall specify in writing the reason(s) for the disapproval and action(s) that the applicant must take to gain approval.

5.5. Processing procedures for notices of intent.

5.5.1. The administrator shall review each notice of intent and make a completeness determination within 30 days of receipt of the notice of intent. If the notice of intent and supplemental information are deemed to be complete, processing of the notice of intent shall proceed in accordance with Section 4 (f) of Chapter 2, Wyoming Water Quality Rules and Regulations, and Part I, Section 5 of this permit. If the administrator determines that the notice of intent is incomplete, a notice shall be provided to the applicant, describing the additional information needed in order to complete the processing of the notice of intent, within 45 days of receipt of the notice of intent. The completeness of any notice of intent shall be judged independently of the status of any other notice of intent for the same facility or activity.

5.5.2. Upon determination of completeness or as specified in the general permit, the administrator, or his authorized representative, shall make a determination on issuance or denial of the authorization for coverage under the general permit. If the administrator, or his authorized representative, proposes that the discharge be authorized, the administrator, or his authorized representative, will also identify any conditions of authorization.

5.5.3. Discharges associated with wetland destruction/mitigation activities receive coverage under this permit when the Administrator provides a written authorization to the applicant that the Notice of Intent has been accepted and the permitted activity is covered under the general permit.

5.6. The Criteria For Approval Of Mitigation Plans Under The General Permit

5.6.1. The administrator shall approve all Mitigation Plans utilizing Wyoming Wetland Banked Credits in accordance with the "Wyoming Statewide Wetland Mitigation Bank - Guidelines for Interpretation and Implementation," April 1995;

5.6.2. The administrator shall approve all Mitigation Plans involving the creation of new replacement wetlands, the restoration of degraded wetlands, or the enhancement of existing wetlands that are not recorded in the Statewide Wetland Mitigation Bank but meet the substantial elements of the wetland banking guidelines;

5.6.3. The administrator may approve types of mitigation other than those described in the April 1995 Wetland Mitigation Bank Guidelines on a case-by-case basis after consideration of the ecological function and wetland value of the impacted wetlands and the net environmental benefit of the proposed mitigation. Such types of mitigation may include but are not limited to the acquisition of conservation easements, contributions to specific

private or public habitat improvement projects, or modifications to the geographic and ecological limitations expressed in the wetland banking guidelines.

6. Site Access: If requested by the administrator or the administrator's authorized agent, the permittee shall provide access to, physical locations associated with this permit including, but not limited to, any waters of the state associated with the permit at the point of discharge

## 7. Self-Monitoring And Inspection Requirements

### 7.1. Active Mitigation Sites

During wetland construction, qualified personnel having wetland training, provided by the permittee, shall inspect the site at least monthly. At a minimum, the inspection must include an evaluation of:

- 7.1.1. Disturbed areas for uncontrolled erosion;
- 7.1.2. Erosion control Best Management Practices (BMPs) utilized on site to determine if the BMPs are functioning properly;
- 7.1.3. Chemical storage areas and vehicles for leaks, drips, and/or spills;
- 7.1.4. Percentage of the regrowth of vegetation at the site.

All instances of uncontrolled erosion, improperly functioning BMPs and discharges of chemicals to a surface water of the state must be identified in the inspection report and corrected within 2 working days. Identified discharge of chemicals must be mitigated immediately and reported within 24 hours as a spill and would be subject to possible enforcement as an unpermitted discharge. The steps to correct the problems must also be identified in the inspection report.

### 7.2. Inactive Mitigation Sites

During seasonal shutdowns and during the period following completion of mitigation, but prior to return of the site to "finally stabilized" conditions and termination of coverage under the permit, qualified personnel (provided by the permittee) shall inspect the site at least twice a year, once in the spring and once in the fall. The inspection must include an evaluation, as appropriate, of the following conditions:

- 7.2.1. Disturbed areas for uncontrolled erosion;
- 7.2.2. Erosion control BMPs utilized on site to determine if the BMPs are functioning properly;
- 7.2.3. Chemical storage areas and vehicles for leaks, drips and/or spills;
- 7.2.4. The percentage of the regrowth of vegetation at the site.

7.3. The operator shall keep a record of inspections and retain them for three years as per Part I, Section 11 of this permit.

7.3.1. The permittee must submit an annual report that includes copies of the inspection report that includes copies of the inspection reports referenced above to the administrator by January 28 of each year.

7.3.2. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part II., Paragraph 1.11), and submitted to:

Wyoming Department of Environmental Quality Water Quality  
Division, WYPDES Program Herschler Building, 4 West 122 West  
25th Street  
Cheyenne, WY 82002 Telephone: (307)  
777-7781 7.3.3.

8. Notice of Termination

8.1. When a site has been finally stabilized according to the definition in Part I (4) of this permit, the permittee is no longer required to have coverage under this permit. At that time the permittee shall submit to the Administrator a Notice of Termination (NOT), as provided by the Administrator (or, Appendix B of this permit). Following a review, the Administrator will terminate coverage, deny termination, or request additional information.

8.2. The permittee will receive a written confirmation of the Administrator's actions.

9. Surface Water Quality Standards.

Nothing in this permit in any way relieves the permittee from complying with water quality standards as defined in Wyoming Department of Environmental Quality Rules and Regulations and/or the Environmental Quality Act or any other local, state, or federal regulations.

10. Test Procedures

Test procedures for the analysis of pollutants, collection of samples, sample containers, sample preservation, and holding times, shall conform to regulations published pursuant to 40 CFR, Part 136, unless other test procedures have been specified in this permit.

\ 11. Records Retention

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 administrator at any time. Data collected on site, copies of Discharge Monitoring Reports and a copy of this WYPDES permit must be maintained on site during the duration of activity at the permitted location.

11. Penalties for Tampering

The 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 per violation, or by imprisonment for not more than two years per violation, or both.

PART II

1. MANAGEMENT REQUIREMENTS

1.1. Changes

The permittee shall give notice to the administrator of the Water Quality Division as soon as possible of any physical alterations or additions to the permitted facility. Notice is required when:

1.1.1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29 (b); or

1.1.2. The alteration or addition could change the nature or increase the quantity of pollutants discharged.

1.2. Noncompliance Notification

1.2.1. The permittee shall give advance notice of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

1.2.2. The permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than 24 hours from the time the permittee first became aware of the circumstances. The report shall be made to the Water Quality Division, Wyoming Department of Environmental Quality at (307) 777-7781.

1.2.3. A written submission shall be provided within five (5) days of the time that the permittee becomes aware of a noncompliance circumstance as described in paragraph b. above.

1.2.4. The written submission shall contain:

1.2.4.1. A description of the noncompliance and its cause;

1.2.4.2. The period of noncompliance, including exact dates and times;

1.2.4.3. The estimated time noncompliance is expected to continue if it has not been corrected; and 1.2.4.4. Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.

1.2.5. The following occurrences of unanticipated noncompliance shall be reported by telephone to the Water Quality Division, Watershed Management Section, WYPDES Program (307) 777-7781 by the first workday following the day the permittee became aware of the circumstances.

1.2.5.1. Any unanticipated bypass that exceeds any effluent limitation in the permit;

1.2.5.2. Any upset which exceeds any effluent limitation in the permit; or

1.2.5.3. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit.

1.2.5.4. The administrator of the Water Quality Division may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Quality Division, Watershed Management Section,

WYPDES Program (307) 777-7781.

- 1.2.5.5. The permittee shall report all instances of noncompliance that have not been specifically addressed in any part of this permit at the time the monitoring reports are due.

### 1.3. Facilities Operation

- 1.3.1. 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 the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, as a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.

### 1.4. Adverse Impact

- 1.4.1. The permittee shall take all reasonable steps to minimize any adverse impact to waters of the state resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

### 1.5. Bypass of Treatment Facilities

- 1.5.1. Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
- 1.5.2. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs c. and d. of this section. Return of removed substances to the discharge stream shall not be considered a bypass under the provisions of this paragraph.
- 1.5.3. Notice:
  - 1.5.3.1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice at least 60 days before the date of the bypass.
  - 1.5.3.2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.A.2.
- 1.5.4. Prohibition of bypass.
  - 1.5.4.1. Bypass is prohibited and the administrator of the Water Quality Division may take enforcement action against a permittee for a bypass, unless:
    - 1.5.4.2. The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
    - 1.5.4.3. 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 to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

1.5.4.4. The permittee submitted notices as required under paragraph 1.5.3. of this section.

1.5.4.5. The administrator of the Water Quality Division may approve an anticipated bypass, after considering its adverse effects, if the administrator determines that it will meet the three conditions listed above in paragraph 1.5.4.1 of this section.

#### 1.6. Upset Conditions

1.6.1. 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, improper designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

1.6.2. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph c. of this section are met.

1.6.3. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

1.6.3.1. An upset occurred and that the permittee can identify the cause(s) of the upset;

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

1.6.3.3. The permittee submitted notice of the upset as required under Part II, Paragraph 1.2; and 1.6.3.4. The permittee complied with any remedial measures required under Part II, Paragraph 1.4.

1.6.3.5. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

#### 1.7. Removed Substances

1.7.1. Solids, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters or intake waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the state.

#### 1.8. Power Failures

1.8.1. In order to maintain compliance with the effluent limitations and prohibitions of this permit, the permittee shall either:

1.8.2. In accordance with a schedule of compliance contained in Part I, provide an alternative power source sufficient to operate the wastewater control facilities; or

1.8.3. If such alternative power source as described in paragraph a. above is not in existence and no date for its implementation appears in Part I, take such precautions as are necessary to maintain and operate the facility under its control in a manner that will minimize upsets and insure stable operation until power is restored.

#### 1.9. Duty to Comply

1.9.1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the

federal act and the Wyoming Environmental Quality 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 administrator of the Water Quality Division advance notice of any planned changes at the permitted facility or of any activity which may result in permit noncompliance.

1.10. Duty to Mitigate

1.10.1. 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.

1.11. Signatory Requirements

1.11.1. All applications, reports or information submitted to the administrator of the Water Quality Division shall be signed and certified.

1.11.2. All permit applications shall be signed as follows:

1.11.2.1. For a corporation: by a responsible corporate officer;

1.11.2.2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;

1.11.2.3. For a municipality, state, federal or other public agency: by either a principal executive officer or ranking elected official.

1.11.3. All reports required by the permit and other information requested by the administrator of the Water Quality Division 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:

1.11.3.1. The authorization is made in writing by a person described above and submitted to the administrator of the Water Quality Division; and

1.11.3.2. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

1.11.3.2.1. If an authorization under paragraph II.A.11.b. 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 paragraph II.A.11.b must be submitted to the administrator of the Water Quality Division prior to or together with any reports, information or applications to be signed by an authorized representative.

1.11.3.3. 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."

## 2. RESPONSIBILITIES

### 2.1. Inspection and Entry

- 2.1.1. If requested, the permittee shall provide written certification from the surface landowner(s), if different than the permittee, that the administrator or the administrator's authorized agent has access to all physical locations associated with this permit including well heads, discharge points, reservoirs, monitoring locations, and any waters of the state.
- 2.1.2. The permittee shall allow the administrator of the Water Quality Division or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
  - 2.1.2.1. 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;
  - 2.1.2.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
  - 2.1.2.3. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and
  - 2.1.2.4. Sample or monitor, at reasonable times, to assure permit compliance or as otherwise authorized by the federal act, any substances or parameters at any location.

### 2.2. Transfer of Ownership or Control

- 2.2.1. In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the regional administrator of the Environmental Protection Agency and the administrator of the Water Quality Division. The administrator of the Water Quality Division shall then provide written notification to the new owner or controller of the date in which they assume legal responsibility of the permit. The permit may be modified or revoked and reissued to change the name of the permittee and incorporate such other requirements as described in the federal act.

## 3. Availability of Reports

- 3.1. Except for data determined to be confidential under Section 308 of the federal act, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Wyoming Department of Environmental Quality and the regional administrator of the Environmental Protection Agency. As required by the federal act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the federal act.

## 4. Toxic Pollutants

- 4.1. The permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the federal 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.

5. Changes in Discharge of Toxic Substances

- 5.1. Notification shall be provided to the administrator of the Water Quality Division as soon as the permittee knows of, or has reason to believe:
- 5.1.1. 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":
    - 5.1.1.1. One hundred micrograms per liter (100 µg/l);
    - 5.1.1.2. 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;
    - 5.1.1.3. 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
    - 5.1.1.4. The level established by the director of the Environmental Protection Agency in accordance with 40 CFR 122.44 (f).
  - 5.2. 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":
    - 5.2.1. Five hundred micrograms per liter (500 µg/l); 5.2.2. One milligram per liter (1 mg/l) for antimony;
    - 5.2.3. 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
    - 5.2.4. The level established by the director of the Environmental Protection Agency in accordance with 40 CFR 122.44 (f).

6. Civil and Criminal Liability

- 6.1. Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. As long as the conditions related to the provisions of "Bypass of Treatment Facilities" (Part II.A.5), "Upset Conditions" (Part II.A.6), and "Power Failures" (Part II.A.8) are satisfied then they shall not be considered as noncompliance.

7. Need to Halt or Reduce Activity not a Defense

- 7.1. 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.

8. Oil and Hazardous Substance Liability

- 8.1. 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 federal act.

9. State Laws

9.1. 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 established pursuant to any applicable state or federal law or regulation. In addition, issuance of this permit does not substitute for any other permits required under the Clean Water Act or any other federal, state, or local law.

10. Property Rights

10.1. The issuance of this permit does not convey any property rights in either real or personal property, 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.

11. Duty to Reapply

11.1. 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.

12. Duty to Provide Information

12.1. The permittee shall furnish to the administrator of the Water Quality Division, within a reasonable time, any information which the administrator 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 administrator, upon request, copies of records required by this permit to be kept.

13. Other Information

13.1. 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 administrator of the Water Quality Division, it shall promptly submit such facts or information.

14. Permit Action

14.1. 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.

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PART III

1. OTHER REQUIREMENTS

1.1. Flow Measurement

1.1.1. At the request of the administrator of the Water Quality Division, the permittee must be able to show proof of the accuracy of any flow measuring device used in obtaining data submitted in the monitoring report. The flow measuring device must indicate values of within plus or minus ten (10) percent of the actual flow being measured.

2. 208(b) Plans

2.1. This permit may be modified, suspended or revoked to comply with the provisions of any 208(b) plan certified by the Governor of the State of Wyoming.

3. Reopener Provision

3.1. 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:

3.1.1. The state 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;

3.1.2. A total maximum daily load (TMDL) and/or watershed management plan is developed and approved by the state and/or the Environmental Protection Agency which specifies a wasteload allocation for incorporation in this permit;

3.1.3. A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit;

3.1.4. Downstream impairment is observed and the permitted facility is contributing to the impairment;

3.1.5. The limits established by the permit no longer attain and/or maintain applicable water quality standards;

3.1.6. The permit does not control or limit a pollutant that has the potential to cause or contribute to a violation of a state water quality standard.

3.1.7. If new applicable effluent guidelines and/or standards have been promulgated and the standards are more stringent than the effluent limits established by the permit.

3.1.8. In order to protect water quality standards in neighboring states, effluent limits may be incorporated into this permit or existing limits may be modified to ensure that the appropriate criteria, water quality standards and assimilative capacity are attained.

4. Permit Modification

4.1. After notice and opportunity for a hearing, this permit may be modified, suspended or revoked in whole or in part during its term for cause including, but not limited to, the following:

4.1.1. Violation of any terms or conditions of this permit;

- 4.1.2. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- 4.1.3. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- 4.1.4. If necessary to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b) (2) (C) and (D), 304 (b) (2) and 307 (a) (2) of the federal act, if the effluent standard or limitation so issued or approved:
- 4.1.5. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
- 4.1.6. Controls any pollutant not limited in the permit.

5. Toxicity Limitation - Reopener Provision

- 5.1. This permit may be reopened and modified (following proper administrative procedures) to include a new compliance date, additional or modified numerical limitations, a new or different compliance schedule, a change in the whole effluent protocol or any other conditions related to the control of toxicants if one or more of the following events occur:
  - 5.1.1. Toxicity was detected late in the life of the permit near or past the deadline for compliance;
  - 5.1.2. The TRE results indicate 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;
  - 5.1.3. The TRE results indicate 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;
  - 5.1.4. Following the implementation of numerical controls on toxicants, the permit issuing authority agrees that a modified whole effluent protocol is necessary to compensate for those toxicants that are controlled numerically;
  - 5.1.5. The TRE reveals other unique conditions or characteristics which, in the opinion of the permit issuing authority, justify the incorporation of unanticipated special conditions in the permit.

6. Severability

- 6.1. 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.

7. Penalties for Falsification of Reports

- 7.1. The federal 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 two years per violation or both..

APPENDIX A  
NOTICE OF INTENT  
FOR WETLANDS MITIGATION

*This Notice of Intent is being filed for:*

*An isolated wetlands mitigation project which does not currently have coverage under a general permit for discharges.*

*MITIGATION PLAN: Please complete this form and include a Mitigation Plan:*

**1) Name, address, and telephone number of the company, individual, or organization which will have responsibility for the isolated wetlands impairment and mitigation and which will be the permit holder.**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

City and State: \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax \_\_\_\_\_

Email: \_\_\_\_\_

**2) Characterization of the Activity Which Will Impair Wetland**

a) *Location and description of the isolated wetland that will be impacted, including the area of impact in acres, type of wetland, probable functional values, and source of water;*

Project Name: \_\_\_\_\_

Quarter: \_\_\_\_\_ Section: \_\_\_\_\_ Township: \_\_\_\_\_ Range: \_\_\_\_\_ County: \_\_\_\_\_

Latitude \_\_\_\_\_ Longitude \_\_\_\_\_

Area of impact in acres \_\_\_\_\_

Type of wetland \_\_\_\_\_

Probable functional values \_\_\_\_\_

Source of water \_\_\_\_\_

b. Name(s) and address(s) of impacted property owner(s) (if different from applicant):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City and State: \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax \_\_\_\_\_

Email: \_\_\_\_\_

c) Name(s) and address(s) of adjacent property owner(s) who may be affected by the impacted wetland area;

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City and State: \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax \_\_\_\_\_

Email: \_\_\_\_\_

d) Description of the activity causing the wetland impairment;

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

e) The expected volume of dredge or fill material expected to be discharged into the wetland.

\_\_\_\_\_  
\_\_\_\_\_

f) Name of the drainage basin and nearest waters to the isolated wetlands:

\_\_\_\_\_

g) Delineation of the impacted wetland using the U.S. Army Corps of Engineer's 1987 Wetland Delineation Manual, including maps, drawings, data sheets and conclusions;

**3) MITIGATED WETLAND CHARACTERIZATION:**

- a. Description of actions to be taken to fully offset damage to the impacted wetland;
- b. Does the proposed mitigation involve the construction of replacement wetlands or the enhancement of existing wetlands?
  - 1). Where the proposed mitigation involves the construction of replacement wetlands or the enhancement of existing wetlands, this permit requires the location and description of the mitigation area including the name and address of the landowner, construction plans, maps, water sources and construction time tables;
- c. Does the proposed mitigation involve the use of wetland credits recorded in the “Wyoming Statewide Wetland Mitigation Bank”?
  - 1) Where the proposed mitigation involves the use of wetland credits recorded in the “Wyoming Statewide Wetland Mitigation Bank”, this permit requires a written authorization signed by the credit owner referencing the wetland credit file number and the amount of credit authorized for use;
- d. List of related permissions and/or authorizations necessary to successfully complete the planned mitigation including but not limited to water rights, easements, and associated federal, state or local permits.
- e. Administrator’s authorized agent, the permittee shall provide access to, physical locations associated with this permit including, but not limited to, any waters of the state associated with the permit at the point of discharge.

**General Permit for Wetlands Mitigation  
WYWET0000**

20. 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.

<i>Authorized signatories for this notice of intent are the following:</i>	
<i>For corporations:</i>	<i>A principal executive officer of at least the level of vice president, or the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the overall operation of the facility from which the discharge originates.</i>
<i>For partnerships:</i>	<i>A general partner.</i>
<i>For a sole proprietorship:</i>	<i>The proprietor.</i>
<i>For a municipal, state, federal or other public facility:</i>	<i>Either a principal executive officer or ranking elected official.</i>

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Printed Name of Person Signing Title

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Signature of Applicant\* Date Telephone

\*All permit applications must be signed in accordance with 40 CFR Part 122.22, "for" or "by" signatures are not acceptable.  
RP/11-0891

Section 35-11-901 of Wyoming Statutes provides that:

Any person who knowingly makes any false statement, representation, or certification in any application ... shall upon conviction be fined not more than \$10,000 or imprisoned for not more than one year, or both.

*Mail this application to:*

*WYPDES Permits Section  
DEQ/WQD  
Herschler Building - 4 W  
122 West 25th Street  
Cheyenne, WY 82002*

<i>FOR AGENCY USE ONLY</i>								
<i>Certification Number</i>								
W	Y	W	E	T				
<i>Date Received</i>								
<i>MM</i>			<i>DD</i>			<i>YY</i>		

APPENDIX B  
TERMINATION NOTICE

1. Name, address, and telephone number of the company, individual, or organization that received authorization for an isolated wetlands discharge under the attached general permit.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

City and State: \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax \_\_\_\_\_

Email: \_\_\_\_\_

2. Identification number assigned to this wetlands discharge: WYWET \_\_\_\_\_

3. Project Name: \_\_\_\_\_

Certification:

*I certify under penalty of law that the isolated wetlands discharge identified above has been completed and that the discharge locations have been returned to approximate pretest conditions. I understand that by submitting this notice I am terminating coverage under Wyoming's general WYPDES permit for isolated wetlands discharges. I also understand that if, at a later date, it is determined that the site was inadequately reclaimed and pollutant discharge results, I may be liable for discharging pollutants without a permit.*

\_\_\_\_\_  
Printed Name of Person Signing

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone

Section 35-11-901 of Wyoming Statutes provides that:

"Any person who knowingly makes any false statement, representation, or certification in any application ... shall, upon conviction, be fined not more than \$10,000 per day for each violation or imprisoned for not more than one (1) year or both."

Upon completion, remove this notice from the permit and mail to:

WYPDES Permits Section  
DEQ/WQD  
Herschler Building - 4 W  
122 West 25th Street  
Cheyenne, WY 82002  
11-0891