

## Statement of Basis

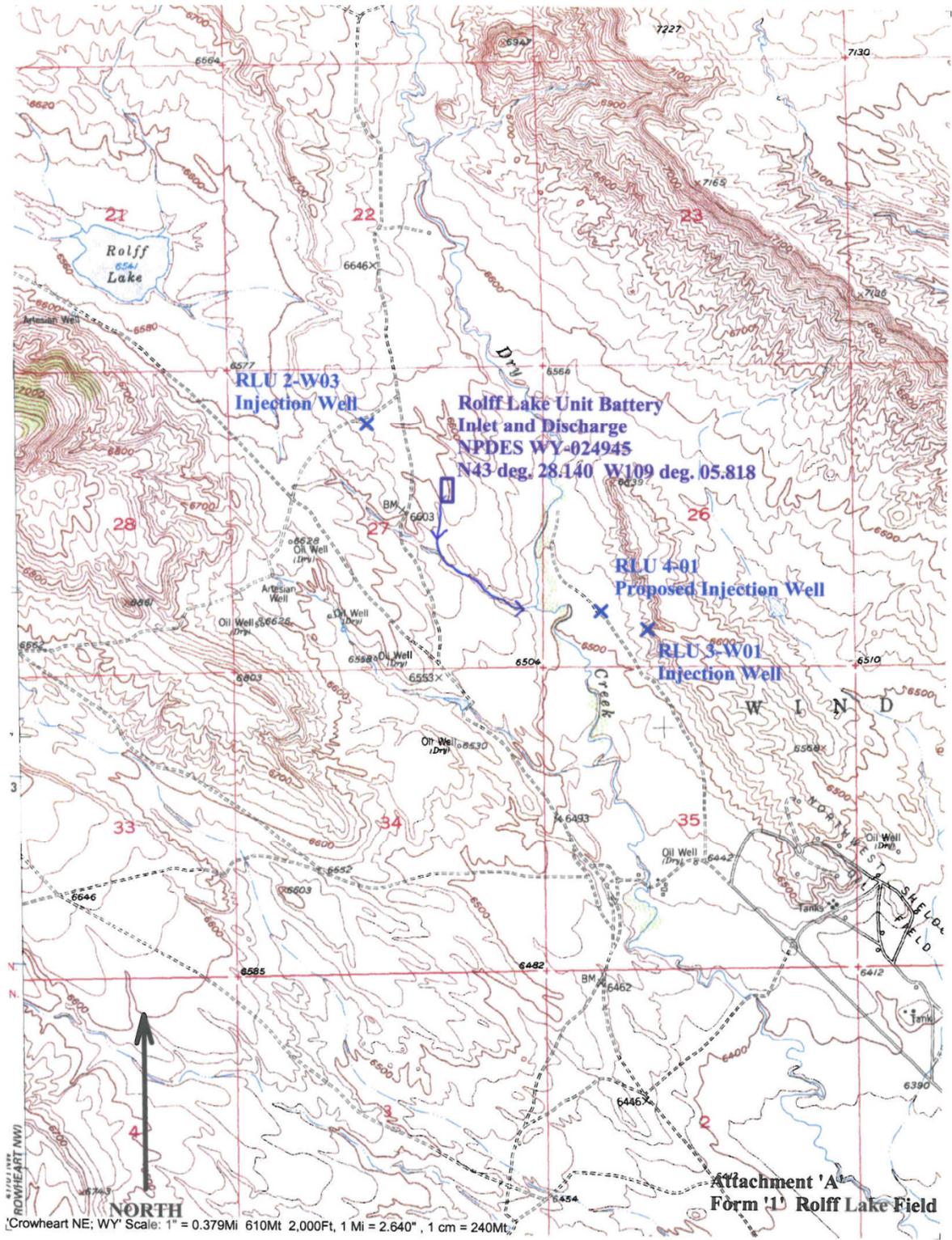
|                       |   |
|-----------------------|---|
| PERMITTEE             | <b>Phoenix Production Company</b>   |
| FACILITY:             | <b>Rolff Lake Unit</b>  |
| PERMIT NUMBER:        | <b>WY-0024945</b>   |
| RESPONSIBLE OFFICIAL: | Chris Williamson, Vice President<br>Phoenix Production Company  |
| FACILITY CONTACTS:    | Thomas Faulkner, P.E., Senior Petroleum Engineer<br>Phoenix Production Company<br>PO Box 2653<br>Cody, WY 82414<br>307-587-6440<br>(fax) 307-587-6450 |
| PERMIT TYPE:          | Minor Industrial (Renewal)<br>Indian Country  |
| FACILITY LOCATION     | SW ¼ NE ¼ Section 27, Township 6 North, Range 3 West<br>Fremont County, Wyoming   |
| DISCHARGE POINT       | Outfall 001, Lat. 43.46819° N, Long. 109.09709° W   |

### **Background Information**

The Environmental Protection Agency (EPA) directly implements the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) on Indian country lands within the State of Wyoming. This facility is located on the Wind River Indian Reservation and is thus in “Indian country” as defined at 18 U.S.C. 1151. The EPA has not approved the Eastern Shoshone or Northern Arapaho Tribes (Tribes) or the State of Wyoming to implement the CWA NPDES program in Indian country.

This permit is for the discharge of produced water generated from the management and treatment of produced oil, water, and gas from the Phoenix Production Company – Rolff Lake Unit. The produced water is discharged from outfall 001 at the wastewater treatment facility located in Fremont County, Wyoming, (Figure 1). This facility is located within the exterior boundaries of the Wind River Indian Reservation.

This permit is a renewal of NPDES Permit Number, WY-0024945, which expired on September 30, 2010 and was administratively extended.



**Figure 1 - Phoenix Production-Rolff Lake Unit Site Location**

## Produced Oil and Gas Separation and Wastewater Management

The Rolff Lake facility treats oil and produced water from five production wells (Figure 2). The produced oily water is separated by emulsion breaking chemicals, gravity and heat. The produced oily water generated from the production wells are sent to an emulsion header house and then to a 10 foot by 20 foot free water knockout (FWKO) tank for separation of oil and water. The separated water from the FWKO tank is discharged to a 200 barrel skim tank and to the 2 unlined wastewater holding pits. The separated oil from the FWKO tank flows to a 6 foot by 20 foot vertical heater treatment tank. Produced water from this tank discharges to the skim tank and wastewater holding pits. In addition, about 0.001 MGD of overflow from the water injection pump used for the injection wells combines with the produced water prior to discharge to the skim tank and wastewater holding pits. There is additional separation of oil and water within the skim tank and the wastewater holding pits. Oil is skimmed via a vacuum truck, as needed from the skim tank and the holding pits.

The produced oil from heat treatment is sent to one of four oil sales tanks (400 barrels). The oil from the sales tanks are transferred to trucks and hauled away from the site.

According to information received during the permit application process, the Rolff Lake facility did not have any hydraulic fracture stimulations planned for 2010 but expects a fracture stimulation to occur once every 2 years. In addition, there are no acid stimulations or biocide treatments occurring at this location. However, Phoenix Production uses an active chemical treatment program at this location. In addition to the emulsion breaking chemicals injected at the header house, scale inhibitors are used and a water clarifier is used at the header.

According to information submitted in the permit application, the facility's discharge through outfall 001 was 0.028 million gallons per day (MGD) and anticipates that this could increase to about 0.049 MGD within the next 5 years.

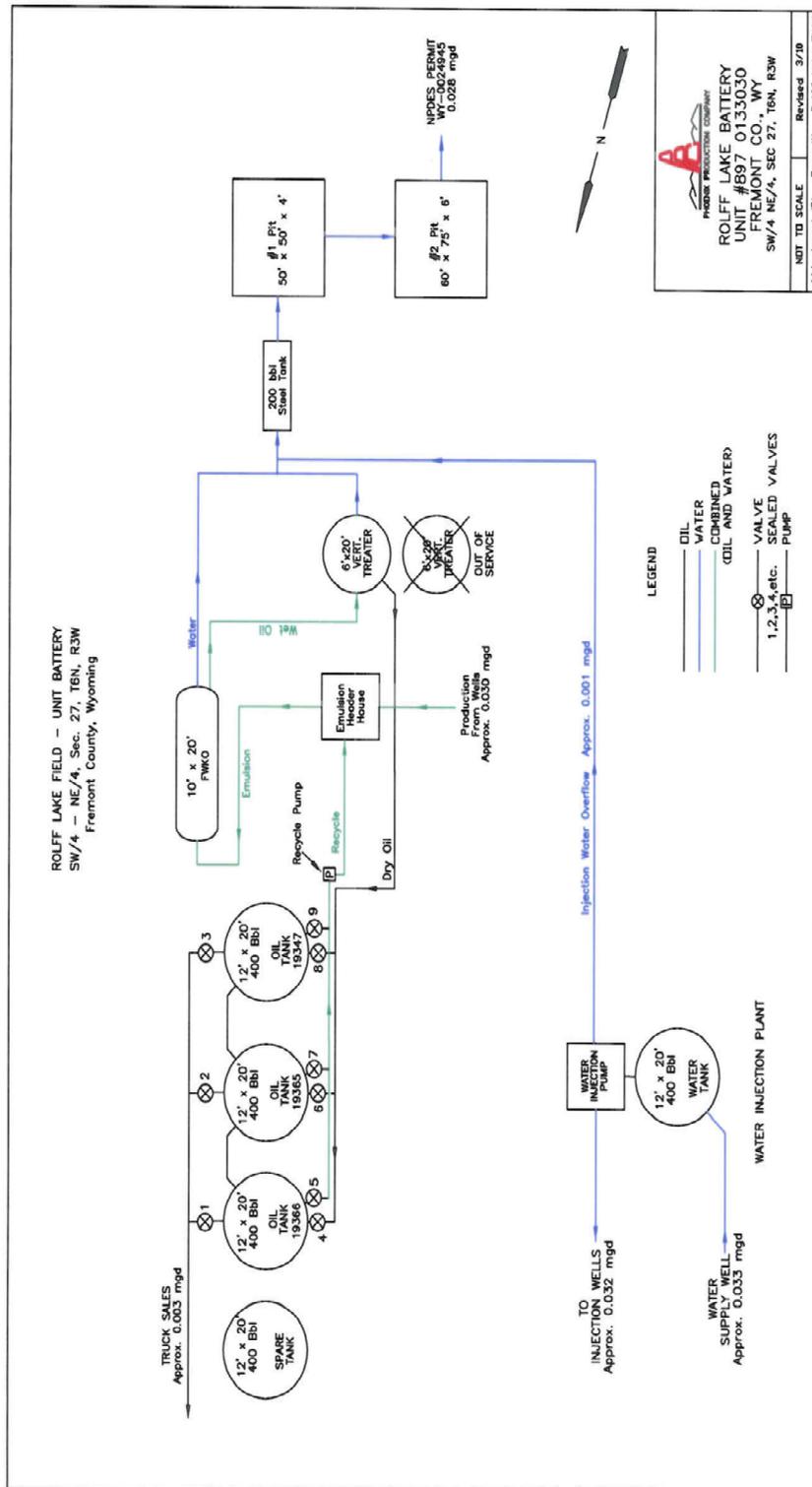


Figure 2 – Phoenix Production – Rolff Lake Unit – Flow Schematic

## **Receiving Waters**

The discharge from outfall 001 (Figure 3) at this facility enters an ephemeral tributary (Figure 4) to Dry (Pasup) Creek. The discharge from the Rolff Lake facility is the only source of year-round water in the area and the tributary runs south and east from the facility about ¾ mile to Dry (Pasup) Creek. Dry (Pasup) Creek is located in the Wind River Drainage Basin.

The Tribes developed surface water quality requirements that apply to waters within the exterior boundaries of the Wind River Reservation. These water quality requirements were adopted into tribal code as Water Quality Rules and Regulations effective September 25, 2007. The water quality requirements were submitted to the EPA and returned to the Tribes with comments. The tribal water quality requirements have not yet been formally approved by the EPA, however, the EPA is considering the Tribes' water quality requirements when determining reasonable potential (RP) and evaluating the need for any water quality based effluent limitations (WQBELs) in this renewal permit. EPA relied on CWA Section 301(b)(1)(C) and principles of tribal sovereignty in establishing WQBELs based on tribally-adopted water quality requirements.

In the Tribes' water quality requirements, designated uses were established in which the Tribes classified the unnamed tributary and Dry (Pasup) Creek from the confluence with Wind River, upstream to perennial flow as Class 3B. Class 3B waters are tributary waters including adjacent wetlands that are not known to support fish populations or drinking water supplies and where those uses are not attainable. Class 3B waters are intermittent and ephemeral streams with sufficient hydrology to normally support and sustain communities of aquatic life including invertebrates, amphibians, or other flora and fauna which inhabit waters of the Reservation at some stage of their life cycles. In general, 3B waters are characterized by frequent linear wetland occurrences or impoundments within or adjacent to the stream channel over its entire length. Such characteristics will be a primary indicator used in identifying Class 3B waters. Uses designated on Class 3B waters include aquatic life other than fish, primary contact recreation, wildlife, industrial, agricultural, cultural/traditional and aesthetic uses.

The tributary leading to Dry (Pasup) Creek is also used for wildlife and stock watering.



**Figure 3 - Outfall 001 - SW Corner of Wastewater Holding Pit #2**



**Figure 4 - Tributary to Dry (Pasup) Creek**

## **Applicable Technology and Water Quality Considerations**

Permit limitations for the Rolff Lake facility are derived through evaluating applicable treatment technology standards and narrative/numeric water quality requirements. The applicable treatment technology standards for the site are found in 40 CFR Part 435, Oil and Gas Extraction Point Source Category, Subpart E – Agricultural and Wildlife Water Use Subcategory.

Treatment technology standards establish a level of effluent quality that must be met by all facilities affected by the applicable category. The level of effluent quality established by the treatment standards may not be sufficient, however, to protect all water uses. As required by the CWA, the EPA must conduct an evaluation of the numeric water quality requirements and the assimilative capacity for the receiving stream. The results of this evaluation are used to establish permit limits to ensure the receiving stream quality and its existing and designated uses are protected. An evaluation of the narrative water quality requirements that may be applicable to this facility is performed to further protect the characteristics and water quality of the receiving stream.

## **Technology Based Effluent Limitations**

### **Applicable Effluent Guidelines and Standards**

Rolff Lake Unit is an onshore facility located landward of the inner boundary of the territorial seas. The facility is also located west of the 98<sup>th</sup> meridian and, therefore, Subpart E applies, allowing discharge of produced water for which the produced water has a use in agricultural or wildlife propagation. The effluent guideline defines “use in agricultural or wildlife propagation” to mean “that the produced water is of good enough quality to be used for wildlife or livestock watering or other agricultural uses and that the produced water is actually put to such use during periods of discharge.” 40 CFR § 435.51(c).

The actual effluent limitation from Subpart E is found in 40 CFR § 435.52, which provides:

- (a) 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 sands).
- (b) Produced water discharges shall not exceed the following daily maximum limitation:  
Oil and Grease: 35 mg/L.

Based on beneficial uses documentation and the water management plan submitted by grazing lessees and approved by the Wind River Environmental Quality Commission, the produced water has a use in livestock and wildlife propagation after discharge into the receiving waters. The permit application also contained 2 letters representing 5 ranchers that documented the actual beneficial usage of the discharged water to their livestock. In addition, a water management plan for the discharged water was submitted. The Wind River Environmental Quality Commission evaluated these letters and the water management plan and approved these documents.

## Additional Technology Based Effluent Limitations

Under the applicable technology requirements for the Agricultural and Wildlife Water Use Subcategory of Part 435, discharges of produced water must be of good enough quality to be used for wildlife or livestock watering or other agricultural uses. The EPA's previous permit limitations for total dissolved solids (TDS), chloride, and sulfate were based on similar requirements for livestock protection imposed by the State of Wyoming on oil and gas production facilities outside the Wind River Indian Reservation in the State of Wyoming. For this renewal permit, the EPA reviewed current information from literature and studies to establish limitations which are protective of livestock and wildlife consumption of the produced water discharge.

In the previous permit, emphasis was placed on controlling conductance, chloride, sulfate, and TDS for protection of livestock.

### *Water Quality for Wyoming Livestock and Wildlife Report*

The Water Quality for Wyoming Livestock and Wildlife document published in 2007 by the University of Wyoming Department of Veterinary Sciences, University of Wyoming Department of Renewable Resources, Wyoming Game and Fish Department, and Wyoming Department of Environmental Quality includes a review of the health effects of inorganic contaminants to livestock and wildlife. The EPA evaluated this document to determine impacts of these contaminants on the beneficial use of produced water, as contemplated in Subpart E.

For livestock watering, the 3,000 mg/L limit on sulfate in the previous permit may not be adequately protective. In the report, "Water Quality for Wyoming Livestock & Wildlife, A Review of the Literature Pertaining to Health Effects of Inorganic contaminants", the summary for sulfur contained the following statement: *"assuming normal feedstuff sulfate concentration, acute death may occur in ruminants at concentrations greater than 2,000 mg/L, especially if not allowed time to acclimate. Assuming normal feedstuff S concentrations, keeping water SO<sub>4</sub> concentrations less than 1,800 mg/L should minimize the possibility of acute death in cattle. Concentrations less than 1,000 mg/L should not result in any easily measured loss in performance."*<sup>1</sup>

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<sup>1</sup> M. F. Raisbeck, S. L. Riker, C. M. Tate, R. Jackson, M. A. Smith, K. J. Reddy and J. R. Zygmunt (2007): Water quality for Wyoming livestock and wildlife. A Review of the Literature Pertaining to Health Effects of Inorganic Contaminants UW AES bulletin B-1183. pp 94; Sulfate Chapter 10, pp45-48  
<http://www.wyomingextension.org/agpubs/pubs/B1183.pdf> (verified March 22, 2011)

Therefore, the following limit was determined to be protective of the beneficial use:

| <b>Pollutant</b> | <b>Acute</b> | <b>Chronic</b> |
|------------------|--------------|----------------|
| Sulfate, mg/L    | 1,800        | 1,000          |

In addition, the study recommends that water for cattle consumption contain less than 2.0 mg/L of fluoride and assumes that this concentration should be safe for sheep, cervids, and horses. <sup>2</sup> Fluoride is addressed below.

### **Water Quality Based Effluent Limitations**

The Tribes developed water quality requirements including numeric criteria and narrative requirements that apply to waters within the exterior boundaries of the Wind River Indian Reservation. These requirements were adopted into tribal code as Water Quality Rules and Regulations effective September 25, 2007. The water quality requirements were submitted to the EPA for review. Comments were returned to Wind River Environmental Quality Commission (WREQC), which is now in the process of reviewing the rules based on the EPA's comments. The Tribes' updated requirements have not been formally submitted to the EPA for approval. EPA relied on CWA Section 301(b)(1)(C) and principles of tribal sovereignty in establishing WQBELs based on tribally-adopted water quality requirements.

#### **Numeric Water Quality Criteria**

To ensure that any potential permit effluent limitations based on the Tribes' adopted water quality requirements are fully protective of the designated aquatic life use, a comparison of the Tribes' requirements with the EPA's published recommended CWA Section 304(a) criteria was performed. In most cases, the Tribes' requirements were equivalent to EPA's published criteria. The tribal exceptions were for cadmium (acute – 19.12 µg/L; chronic – 6.22 µg/L) and silver (acute – 37.44 µg/L), which were higher than the EPA's criteria. Where the two sets of criteria varied, the EPA chose the more stringent of the two. The selected criteria used in evaluation of RP and setting permit effluent limitations are listed in Table 1.

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<sup>2</sup> M. F. Raisbeck, S. L. Riker, C. M. Tate, R. Jackson, M. A. Smith, K. J. Reddy and J. R. Zygmunt (2007): Water quality for Wyoming livestock and wildlife. A Review of the Literature Pertaining to Health Effects of Inorganic Contaminants UW AES bulletin B-1183. pp 19; Fluoride Chapter 4, pp15-19  
<http://www.wyomingextension.org/agpubs/pubs/B1183.pdf> (verified March 22, 2011)

Table 1 – Applicable Water Quality Criteria - expressed as µg/L

| Pollutant                    | More Stringent of EPA Water Quality Criteria and Adopted Wind River Tribal Water Quality Requirements |                      |
|------------------------------|---|----------------------|
|                              | Aquatic Life  |                      |
|                              | Acute   | Chronic              |
| Aluminum, Total              | 750   | 87                   |
| Arsenic, Total               | 340   | 150                  |
| Cadmium, Total               | 7.7 <sup>(1)</sup>  | 0.64 <sup>(1)</sup>  |
| Chloride                     | 860,000   | 230,000              |
| Chromium (III)               | 1,773.3 <sup>(1)</sup>  | 230.7 <sup>(1)</sup> |
| Chromium (VI), Hexavalent    | 16  | 11                   |
| Copper, Total                | 49.6 <sup>(1)</sup>   | 29.3 <sup>(1)</sup>  |
| Iron, Total                  | --  | 1,000                |
| Lead, Total                  | 280.8 <sup>(1)</sup>  | 10.9 <sup>(1)</sup>  |
| Manganese, Total             | 9,033.8   | 3,105                |
| Mercury, Total               | 1.4   | 0.77                 |
| Nickel, Total                | 1,513 <sup>(1)</sup>  | 168 <sup>(1)</sup>   |
| Oil and Grease               | Narrative, 10 mg/L  |                      |
| pH                           | 6.5 to 9.0  |                      |
| Selenium, Total              | --  | 4.6                  |
| Silver, Total                | 34.9 <sup>(1)</sup>   | --                   |
| Sulfide, as H <sub>2</sub> S | --  | 2                    |
| Zinc, Total                  | 379 <sup>(1)</sup>  | 382 <sup>(1)</sup>   |

<sup>(1)</sup> Criterion is hardness dependent. Table values adjusted for hardness using the recommended cap of 400 mg/L for waters having a hardness value greater than 400 mg/L.

#### Narrative Water Quality Requirement

The narrative water quality requirement for the Wind River Indian Reservation were evaluated to determine if permit limits were necessary to protect the characteristics and uses of the receiving stream. The Tribes have adopted narrative requirements for toxic pollutants, settleable solids and floating and suspended solids. The following are the Tribes' narrative requirements:

Section 13 - Toxic Pollutants. Except for those substances referenced in Section 21 (e) and (f) of these regulations, toxic pollutants attributable to or influenced by human activities shall not be present in any Reservation surface water in concentrations or combinations which constitute pollution as defined herein.

Section 15 - Settleable Solids. In all Reservation waters, substances attributable to or influenced by human activities that will settle to form sludge, bank, or bottom deposits shall not be present in quantities which could result in significant aesthetic degradation, significant degradation of habitat for aquatic life or adversely affect public water supplies, agricultural or industrial water use, plant life or wildlife.

Section 16 - Floating and Suspended Solids. In all Reservation surface waters, floating and suspended solids attributable to or influenced by human activities shall not be present in quantities which could result in significant aesthetic degradation, significant degradation of habitat for aquatic life or adversely affect public water supplies, agricultural or industrial water use, plant life or wildlife.

### Permit Limitations Based On Narrative Water Quality Requirements

#### Floating, Suspended and Settleable Solids

Permit requirements for implementing the narrative requirements for discharges of floating solids and oil which causes a visible sheen or deposits on the bank or bottom are included in the renewal permit as effluent limitations:

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.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

### **Reasonable Potential (RP) Evaluation for Water Quality Based Effluent Limitations**

#### Effluent Monitoring and Toxic Pollutants Screening Data

The permit renewal application provided data for pollutants believed to be present as well as: biochemical oxygen demand, chemical oxygen demand, total organic carbon, ammonia, temperature, pH and actual flow. The EPA also reviewed the submitted data from discharge monitoring reports (DMR) for the period of 2005 to 2012, and a toxic pollutant screen report submitted on February 13, 2006. A summary of data collected is given below in Table 2:

Table 2 – DMR data

| Reporting Date | Specific Conductivity (µS /cm) | TDS (mg/L) | Chloride (mg/L) | Sulfate (mg/L) | Total Radium 226 (pCi/L) | Oil & Grease (mg/L) | pH max. (s.u.) | Flow (mgd) |
|----------------|--------------------------------|------------|-----------------|----------------|--------------------------|---------------------|----------------|------------|
| 12/31/2005     | 6,860                          | 5,130      | 1,250           | 816            | 1.4                      | 9.22                | 8.5            | 0.027      |
| 6/30/2006      | 6,810                          | 4,540      | 1,130           | 731            | 1.6                      | 3.78                | 8.4            | 0.037      |
| 12/31/2006     | 6,660                          | 4,720      | 931             | 837            | 2.1                      | 2.33                | 8.3            | 0.031      |
| 6/30/2007      | 6,148                          | 4,540      | 1,040           | 813            | 2.1                      | 4.7                 | 8.3            | 0.028      |
| 12/31/2007     | 6,320                          | 4,200      | 1,010           | 962            | 30.9                     | 9.89                | 8.5            | 0.029      |
| 6/30/2008      | 6,950                          | 4,480      | 1,270           | 749            | 1.7                      | 7.69                | 9.0            | 0.029      |
| 12/31/2008     | 7,160                          | 4,720      | 1,204           | 760            | 4.2                      | 7.79                | 8.5            | 0.029      |
| 6/30/2009      | 6,800                          | 4,680      | 1,100           | 1,330          | 1.6                      | 23.7                | 8.8            | 0.037      |
| 12/31/2009     | 6,900                          | 4,700      | 1,170           | 935            | 31.5                     | 9.05                | 8.8            | 0.028      |
| 6/30/2010      | 6,680                          | 4,825      | 1,100           | 831            | 21.3                     | 9.81                | 8.5            | 0.028      |
| 12/31/2010     | 7,270                          | 5,140      | 1,214           | 1,120          | 30.5                     | 4.98                | 8.5            | 0.036      |
| 6/30/2011      | 6,100                          | 4,270      | 957             | 779            | 30.1                     | 9.1                 | 8.5            | 0.039      |
| 12/31/2011     | 6,280                          | -          | 964             | 730            | 19.6                     | 8.1                 | 8.5            | 0.033      |
| 6/30/2012      | -                              | -          | -               | -              | -                        | -                   | -              | -          |
| 12/31/2012     | 7,150                          | 4,900      | 1,150           | 867            | 0.11                     | 8.9                 | 8.5            | 0.025      |
| minimum        | 6,100                          | 4,200      | 931             | 730            | 0.11                     | 2.3                 | 8.3            | 0.025      |
| average        | 6,721                          | 4,680      | 1,106           | 876            | 12.8                     | 8.5                 | 8.3-9          | 0.031      |
| maximum        | 7,270                          | 5,140      | 1,270           | 1,330          | 31.5                     | 23.7                | 9.0            | 0.039      |
| Limit          | 7,500                          | 5,000      | 2,000           | 3,000          | 60                       | 10                  | 6.5-9          | -          |

The data in Table 3 was required in facility's permit, Part 1.3.4 – Toxic Pollutants Screen Requirements and submitted to the EPA on February 13, 2006.

Table 3 – Toxic Pollutants Screen Data

| <b>Parameter</b>               | <b>Data (mg/L)</b> |
|--------------------------------|--------------------|
| Dissolved Oxygen               | 0.07               |
| Calcium                        | 129                |
| Chloride                       | 1,390              |
| Magnesium                      | 38.1               |
| Hardness, as CaCO <sub>3</sub> | 478                |
| COD                            | 298                |
| Sulfide (as H <sub>2</sub> S)  | 136                |
|                                | <b>(µg/L)</b>      |
| Arsenic                        | 4                  |
| Aluminum                       | <50                |
| Cadmium                        | <5                 |
| Chromium                       | <5                 |
| Copper                         | <5                 |
| Iron                           | <50                |
| Lead                           | <2                 |
| Manganese                      | <50                |
| Mercury                        | 0.16               |
| Nickel                         | <5                 |
| Selenium                       | 4                  |
| Silver                         | <5                 |
| Uranium                        | <5                 |
| Zinc                           | 138                |
| <b>Radionuclides:</b>          | <b>(pCi/L)</b>     |
| gross alpha                    | 28                 |
| gross alpha precision          | 6.2                |
| gross beta                     | 20.5               |
| gross beta precision           | 14.8               |
| radium 226                     | 1.8                |
| radium 226 precision           | 0.5                |

The data in Table 4 was submitted to the EPA on March 23, 2010 with the permit application.

Table 4 – Permit Application Data

| Parameter                     | Data (mg/L)                         |
|-------------------------------|-------------------------------------|
| BOD                           | 509                                 |
| COD                           | 567                                 |
| TOC                           | 91.7                                |
| TSS                           | 16                                  |
| Ammonia, as N                 | 0.12                                |
| Fluoride                      | 5                                   |
| Nitrogen                      | ND                                  |
| Oil and Grease                | 18 samples, max = 23.7, avg. = 6.68 |
| Sulfate                       | 5 samples, max = 1330, avg. = 1037  |
| Sulfide (as H <sub>2</sub> S) | 170                                 |
| Sulfite                       | 15                                  |
| Boron                         | 3.6                                 |
| Iron                          | ND                                  |
| Magnesium                     | 27                                  |
| Manganese                     | 0.02                                |
| Titanium                      | ND                                  |
| Arsenic                       | 0.004                               |
| Mercury                       | ND                                  |
| Selenium                      | ND                                  |
| Zinc                          | 0.44                                |
| Benzene                       | 0.74                                |
| Ethylbenzene                  | 0.082                               |
| Toluene                       | 0.48                                |
| Naphthalene                   | 0.027                               |
| Xylene                        | 0.31                                |
| Flow, daily avg.              | 0.028 MGD                           |

### Reasonable Potential (RP) Evaluation

#### *Quantitative RP Analysis*

The NPDES regulations in 40 CFR § 122.44(d)(1)(i) – (iii) require permit writers to assess effluent with respect to EPA-approved water quality standards to evaluate the impact of direct dischargers on downstream water quality. This assessment is used to determine permit limitations that are protective of water quality uses. EPA considered it appropriate to assess effluent discharged from this facility and evaluate RP with respect to tribally-approved water quality requirements. Reasonable potential for pollutants in the discharge to cause or contribute to an exceedance of applicable water quality requirements was evaluated for all parameters of concern measured and reported in the permit application, Toxic Pollutants Screen, or DMR. The effluent data was compared to applicable acute and chronic aquatic life criteria values presented in Table 1 after consideration of pollutant variability in the discharge and available dilution in the receiving water.

A quantitative RP evaluation was performed using the Region 8 RP Tool, which assesses RP from effluent data with statistical procedures consistent with EPA's Technical Support Document for Water Quality Based Toxics Control, March 1991. A confidence interval of 95% was used for all RP calculations. See results in Table 5 below.

Table 5 – RP Evaluation

| Parameter                           | Aquatic Life Water Quality Criteria |                      | Maximum Reported Effluent Concentration   | RP?                         |                             |
|-------------------------------------|-------------------------------------|----------------------|---|-----------------------------|-----------------------------|
|                                     | Acute                               | Chronic              |   | Acute                       | Chronic                     |
| Aluminum, Total µg/L                | 750                                 | 87                   | <50   | No                          | No                          |
| Arsenic, Total µg/L                 | 340                                 | 150                  | 4   | No                          | No, RP tool                 |
| Cadmium, Total µg/L                 | 7.7 <sup>(1)</sup>                  | 0.64 <sup>(1)</sup>  | <5  | No                          | No, RP tool                 |
| Chloride, mg/L                      | 860                                 | 230                  | Avg = 1,123   | Yes                         | Yes                         |
| Chromium, Total µg/L                | 1,773                               | 231                  | <5  | No                          | No                          |
| Copper, Total µg/L                  | 49.6 <sup>(1)</sup>                 | 29.3 <sup>(1)</sup>  | <5  | No                          | No                          |
| Fluoride, mg/L                      | 2 <sup>(2)</sup>                    | N/A                  | 5   | Yes <sup>(3)</sup>          | N/A                         |
| Iron, Total µg/L                    | N/A                                 | 1,000                | <50   | -                           | No                          |
| Lead, Total µg/L                    | 280.9 <sup>(1)</sup>                | 10.9 <sup>(1)</sup>  | <2  | No                          | No                          |
| Manganese, Total µg/L               | 9,033 <sup>(1)</sup>                | 3,105 <sup>(1)</sup> | <50, 20   | No                          | No                          |
| Mercury, Total µg/L                 | 1.40                                | 0.77                 | 0.16, ND  | No                          | No                          |
| Nickel, Total µg/L                  | 1,513 <sup>(1)</sup>                | 168 <sup>(1)</sup>   | <5  | No                          | No                          |
| Oil and Grease (mg/L)               | -                                   | 10                   | (18 samples); max = 23.7, avg. = 6.68<br>(10 samples):<br>Max = 9.89, avg. = 7.14 | Yes                         | Yes                         |
| Selenium, Total µg/L                | N/A                                 | 4.6                  | 4, ND   | Yes, RP tool <sup>(3)</sup> | Yes, RP tool <sup>(3)</sup> |
| Silver, Total µg/L                  | 34.9 <sup>(1)</sup>                 | N/A                  | <5  | No                          | No                          |
| Sulfate, mg/L                       | 1,800 <sup>(2)</sup>                | 1,000 <sup>(2)</sup> | 1,330   | No                          | Yes                         |
| Sulfide (as H <sub>2</sub> S), mg/L | N/A                                 | 0.002                | 136, 170  | N/A                         | Yes                         |
| Zinc, Total µg/L                    | 379 <sup>(1)</sup>                  | 382 <sup>(1)</sup>   | 440, 138  | Yes <sup>(3)</sup>          | Yes <sup>(3)</sup>          |

(1) Calculated based on hardness value of 400 mg/L

(2) Criteria limit is not an aquatic life water quality limit, but rather a recommended limit for livestock and wildlife propagation.

(3) Insufficient data to confidently determine existence of RP. Additional data is necessary.

The results of the quantitative evaluation identified chloride, fluoride, oil and grease, selenium, sulfate, sulfide (as H<sub>2</sub>S), and zinc as having RP to cause or contribute to exceedances of the water quality criteria. For fluoride, selenium and zinc, insufficient quantitative data is available to adequately assess RP to exceed the numeric criteria.

In addition to the RP analyses above, the parameters listed in the previous permit were evaluated to determine the facility performance with the permit limitations. Permit limits were developed in the previous permit for Specific Conductance, Total Dissolved Solids, Chloride, and Sulfate to protect the agricultural and wildlife water use requirements of the Oil and Gas Extraction Point Source Category, 40 CFR, Part 435, Subpart E – Agricultural and Wildlife Water Use.

It appears that, based on data contained in the DMRs (Table 2), the facility has not exceeded permit limits for Sulfate, and Total Radium 226. However, the facility has RP to violate the Specific Conductance permit limit and has exceedances of the Total Dissolved Solids permit limit. The permit limits for Specific Conductance, Total Dissolved Solids, and Sulfate will be included in the reissued permit to ensure adequate protection of the agricultural and wildlife water use requirements.

To confidently evaluate quantitatively the reasonable potential of a pollutant to impair the receiving body of water in which the facility discharges, a sufficient quantity of data of known quality to assess variability must be available.

#### *Qualitative RP Analysis*

In cases where the permittee reported a pollutant present at concentrations far in excess of the applicable water quality criterion and there are only one or two data points available, the EPA is proposing to add effluent limitations in order to protect the designated uses and applicable criteria for aquatic life in the renewal permit. In this case, the EPA believes further monitoring to support a RP analysis is unnecessary. In some cases, however, where sampling shows small exceedances of the applicable water quality criterion, but there is insufficient monitoring data to support a RP determination, EPA is not proposing to add an effluent limit and is instead imposing monitoring requirements.

#### Sulfide (as H<sub>2</sub>S)

Sulfide (as H<sub>2</sub>S) can be toxic to aquatic life. The water quality criterion for sulfide (as H<sub>2</sub>S) is 2µg/L (chronic) to protect aquatic life. An evaluation of the data provided by the permittee indicates a significant exceedance of the criterion. An effluent limit, therefore, has been included in this permit.

#### Fluoride, Selenium, Zinc

Additional qualitative review of the limited data for fluoride, selenium and zinc showed inconsistencies that raised questions about the finding of RP through quantitative methods. For example, when two data points were reported, the highest value reported was above or approaching the reporting limit and the other value reported was not (selenium, zinc), or only one data point was provided (fluoride). For these pollutants, the data provided is insufficient to confidently determine the potential for these pollutants to impact the receiving streams in which the facility discharges. Effluent limitations will not be established for fluoride, selenium and zinc at this time, however, monitoring will be required using sufficiently sensitive analytical methods in order to collect adequate data to quantitatively assess RP during the next permit renewal.

#### Mercury

Although the mercury level did not exceed the aquatic life water quality criterion, the metal was detected in at least one sample, other data point was non-detect, and therefore, additional monitoring using clean methods will be required in order to compile a more complete data set for future evaluation. Also, the reissued permit will include a trigger level established at the chronic water quality criterion of 0.77 µg/L and a requirement to develop and implement a mercury minimization plan if that trigger level is detected.

## Organic Compounds

The permit application data submitted included one analysis of some volatile and semi-volatile organic compounds based on whether the permittee believes that the analyte is present in the discharge. The data presented in Table 4 indicates the effluent contains measurable concentrations of benzene, ethyl benzene, toluene, naphthalene and xylene.

The data were evaluated with respect to EPA/Tribal water quality criteria for human health protection and EPA Maximum Contaminant Levels (MCL) for drinking water to determine if there was RP for pollutants in the discharge to exceed the criteria in Table 6. Since the Tribes have not designated the receiving water as a drinking water source, the human health criteria and MCLs are not directly applicable to the water body and effluent limitations will not be established based on this evaluation. Only benzene was identified at concentrations which exceeded the recommended criteria for human health protection and the MCL.

Table 6 - Effluent Organic Compounds Detected and Water Quality Criteria Comparison

| <u>Parameter</u> | <u>Effluent Concentration (µg/L)</u> | <u>Water Quality Criteria (Human Health) (µg/L)</u> |                      | <u>Drinking Water MCL (µg/L)</u> |
|------------------|--------------------------------------|---|----------------------|----------------------------------|
|                  |                                      | <u>Water + Organism</u>                             | <u>Organism only</u> |                                  |
| Benzene          | 740                                  | 2.2   | 51                   | 5                                |
| Ethyl Benzene    | 82                                   | 530   | 2,100                | 700                              |
| Toluene          | 480                                  | 1,300   | 15,000               | 1,000                            |
| Naphthalene      | 27                                   | -   | -                    | -                                |
| Xylene           | 310                                  | -   | -                    | -                                |

Although no effluent limitations were established for benzene in the renewal permit, the effort required to reduce the concentration of other pollutants (e.g. sulfides) in the discharge will concurrently reduce the concentration of volatile organic compounds in the discharge. Additional monitoring for volatile and semi-volatile organic compounds will, however, be required as part of the toxic pollutants screening monitoring requirements in this renewal permit.

The EPA has not published recommended water quality criteria for xylene and naphthalene, but there is a previous criteria document (1980) which indicates there could be aquatic toxicity from naphthalene at 2,300 µg/L (acute) and 620 µg/L (chronic).

### Other Effluent Limitations

The daily maximum limitations for Total Radium 226 of 60 pCi/L, Specific conductance of 7500 µS/cm and total dissolved solids of 5000 mg/L have been retained in this renewal permit and are based on previous permit limitations.

pH limitations have been revised from a range of 6.5 - 8.5 to a range of 6.5 - 9.0 based on tribal WQS for aquatic life protection. The basis for the previous maximum range value for pH of 8.5 could not be verified from review of the permit record and therefore the limit has been revised for this renewal permit.

### Additional Toxics Monitoring Requirements

Included in the permit is additional effluent monitoring to screen for hazardous/toxic constituents (Permit Part 1.3.4.). The requirement to monitor for these pollutants of concern is to develop a dataset to evaluate the RP for these pollutants to impact the receiving streams into which the facility discharges and to comply with the tribal narrative WQS for toxic pollutants.

### Whole Effluent Toxicity (WET) (Permit Part 1.3.6.)

Whole Effluent Toxicity monitoring data for this facility has not been received. As a means to demonstrate compliance with the tribal narrative criteria for toxic pollutants, WET has been included in this permit. WET monitoring requirements that are representative of the discharge effluent (40 CFR § 122.44(d)(1)(ii)) are included in this permit to generate data used to determine whether RP for WET has been demonstrated.

For this permit, acute testing will be required on a quarterly basis after the effective date of the permit until the permittee demonstrates no test failures for either species (*Daphnia magna*, *Pimephales promelas*) tested for four consecutive quarters. Upon successful completion of four consecutive quarterly tests demonstrating no acute toxicity in the discharge, annual monitoring shall be required.

For the purposes of this permit, *Daphnia magna* will be utilized as a toxicity indicator testing organism in lieu of *Ceriodaphnia dubia* due to its higher tolerance for the naturally occurring high TDS levels within the produced water from the wells.

If acute toxicity occurs in a test, e.g.  $LC_{50} < 100\%$  effluent, the permittee will be required to:

- (1) Notify the EPA Regional WET Coordinator within 48 hrs 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 EPA Regional WET Coordinator 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).

If acute toxicity occurs in the two week re-test, the permittee will be required to:

Immediately begin testing once a month until further notified by the EPA Regional WET Coordinator. Accelerated monthly testing is only required for the species that failed the initial and second tests.

Follow conditions for Toxicity Identification/Toxicity Reduction Evaluation (Permit Part 1.3.7).

In addition to the accelerated monitoring, the permittee shall perform a toxicity identification evaluation/toxicity reduction evaluation (TIE/TRE) as to establish the cause of the toxicity, locate the source(s) of the toxicity, and develop control of, or treatment for the toxicity.

The permittee will be required to submit a TRE Plan within 30 or 45 days of learning of the second test failure depending on whether the toxicant is known or unknown at that time.

The TRE Plan may be reviewed by EPA to ensure its adequacy for addressing toxicity in the discharge. EPA may provide comments to the permittee on the TRE Plan and may request that the Plan include additional or specific monitoring, etc. to ensure that all potential sources of toxicity are addressed during the evaluation.

The permittee will be required to implement the provisions of the Plan within 75 or 90 days after learning of the second test failure depending on whether the toxicant is known or unknown at that time.

EPA has provided a summary of useful reference materials in Permit Part 1.3.7.2.1.1 for assistance in developing a TRE Plan should toxicity occur during the term of the permit.

**Effluent Limitations – Outfall 001**

Based on the technology and water quality considerations and protecting beneficial uses, the following effluent limitations will be required for this facility.

Interim Effluent Limitations

Table 7 - **Effective immediately after permit issuance and expiring three (3) years after the effective date of this permit**, the quality of effluent discharged by the facility shall, as a minimum, meet the limitations as set forth below:

| Effluent Characteristic  | Effluent Limitation      |                         |                                |
|--|--------------------------|-------------------------|--------------------------------|
|  | 30-Day Average <u>a/</u> | Daily Maximum <u>a/</u> | Basis for Limitation <u>b/</u> |
| Specific Conductance, µS/cm  | N/A                      | 7,500                   | ELPP                           |
| Total Dissolved Solids, mg/L   | N/A                      | 5,000                   | ELPP                           |
| Chloride, mg/L   | N/A                      | 2,000                   | ELPP                           |
| Sulfate, mg/L  | 1,000                    | 1,800                   | RCLW                           |
| Total Radium 226, pCi/l  | N/A                      | 60                      | ELPP                           |
| 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. |                          |                         | ELPP, WQR                      |
| The pH of the discharge shall not be less than 6.5 nor greater than 9.0 at any time.   |                          |                         | WQR                            |
| There shall be no discharge of floating solids or visible foam in other than trace amounts.  |                          |                         | ELPP, WQR                      |

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

b/ ELPP = Effluent limitations in previous permit; WQR = water quality requirements adopted by the Tribes for the Wind River Indian Reservation; RCLW = Recommended criteria for livestock and wildlife, based on the report “Water Quality for Wyoming Livestock & Wildlife, A Review of the Literature Pertaining to Health Effects of Inorganic Contaminants”, University of Wyoming department of Veterinary Sciences, et al.

Final Effluent Limitations

Table 8 - **Effective three (3) years after the effective date of this permit and lasting through the life of this permit**, the quality of effluent discharged by the facility shall, as a minimum, meet the limitations as set forth below.

| Effluent Characteristic  | Effluent Limitation      |                         |                                |
|--|--------------------------|-------------------------|--------------------------------|
|  | 30-Day Average <u>a/</u> | Daily Maximum <u>a/</u> | Basis for Limitation <u>b/</u> |
| Specific Conductance, $\mu\text{S/cm}$   | N/A                      | 7,500                   | ELPP                           |
| Total Dissolved Solids, mg/L   | N/A                      | 5,000                   | ELPP                           |
| Chloride, mg/L   | 230                      | 860                     | WQR                            |
| Sulfate, mg/L  | 1,000                    | 1,800                   | RCLW                           |
| Sulfide (as H <sub>2</sub> S), mg/L  | 0.002                    | N/A                     | WQR                            |
| Total Radium 226, pCi/l  | N/A                      | 60                      | ELPP                           |
| 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. |                          |                         | ELPP, WQR                      |
| The pH of the discharge shall not be less than 6.5 nor greater than 9.0 at any time.   |                          |                         | WQR                            |
| There shall be no discharge of floating solids or visible foam in other than trace amounts.  |                          |                         | ELPP, WQR                      |

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

b/ ELPP = Effluent limitations in previous permit; WQR = water quality requirements adopted by the Tribes for the Wind River Indian Reservation; RCLW = Recommended criteria for livestock and wildlife, based on the report “Water Quality for Wyoming Livestock & Wildlife, A Review of the Literature Pertaining to Health Effects of Inorganic Contaminants”, University of Wyoming department of Veterinary Sciences, et al.

**Self-Monitoring Requirements – Outfall 001**

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 (EPA No. 3320-1) that no discharge or overflow occurred.

**Table 9 - Effective immediately and lasting through the effective term of this permit**

| <b>Parameter</b>                                    | <b>Frequency</b>                           | <b>Sample/Monitoring Type <u>a/</u></b> |
|---|--|---|
| Total Flow, MGD <u>b/</u>                           | Monthly                                    | Instantaneous                           |
| pH, std units                                       | Monthly                                    | Grab                                    |
| Specific Conductance, $\mu\text{S/cm}$              | Monthly                                    | Grab                                    |
| Oil and Grease, mg/L <u>c/</u>                      | Weekly                                     | Visual                                  |
| Total Radium 226, pCi/L                             | Quarterly                                  | Grab                                    |
| Chloride, mg/L                                      | Quarterly                                  | Grab                                    |
| Sulfide (as H <sub>2</sub> S), mg/L <u>d/</u>       | Quarterly                                  | Grab                                    |
| Sulfate, mg/L                                       | Quarterly                                  | Grab                                    |
| Total Dissolved Solids, mg/L                        | Semi-Annually                              | Grab                                    |
| Mercury, Total, $\mu\text{g/L}$ <u>e/</u>           | Three times after effective date of permit | Grab                                    |
| Whole Effluent Toxicity, Acute (Permit Part 1.3.6.) | Quarterly <u>f/</u>                        | Grab                                    |
| Toxic Pollutants Screen (Permit Part 1.3.4.)        | 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) 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 H<sub>2</sub>S) shall be done with an approved procedure that has a method detection level of no greater than 0.10 mg/L (100  $\mu\text{g/L}$ ). In the calculation of average sulfide (as H<sub>2</sub>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 detected during the life of the permit, the permittee is required to develop and implement the Mercury Minimization Plan (MMP), as described further below in this Statement of Basis.
- f/ At a minimum, quarterly monitoring shall be conducted until the completion of four consecutive quarterly tests demonstrating no acute toxicity is present in the discharge for either test species. Thereafter, monitoring shall be conducted at least annually for the remainder of the term of this permit. See Permit Part 1.3.6.

### **Compliance Schedules (Permit Part 1.3.3.)**

The effluent limitations for chloride and sulfide (as H<sub>2</sub>S) have become either more restrictive or new with this permit renewal. In order to allow the permittee the opportunity to evaluate the measures necessary to meet these new limitations, the permittee shall comply with the schedule outlined in Permit Part 1.3.3. The compliance schedule for chloride and sulfide (as H<sub>2</sub>S) shall be 36 months in duration.

The sulfate limit shall be met immediately since this limit is a technology based limit under 40 CFR Part 435, Subpart E. Under the CWA and EPA's regulations, compliance schedules may not be used for technology-based effluent limits.

### **Toxic Pollutants Screen (Permit Part 1.3.4.)**

This permit requires the permittee to monitor for the constituents listed below in the toxic pollutants screen three times during the life of the permit at outfall 001. One monitoring period will be during the 1<sup>st</sup> year after the effective date of this permit and the second during the 3<sup>rd</sup> year after the effective date of this permit. Reporting of each of the first two screening datasets shall be submitted to the permit issuing authority, at the time of the DMR submittal for that reporting period in which the screening occurred. A third monitoring will be required as part of the application documentation for the renewal of this permit. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

- 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.
- Fluoride as listed in 40 CFR Part 122, Appendix D, Table IV.

**Method Detection Limits (Permit Part 1.3.5.)**

Monitoring methods must be sufficiently sensitive to meet the Method Detection Limits specified in Table 10:

Table 10 Required Method Detection Limits

| <b>Parameter</b>                      | <b>Required Detection Limits and Required Units</b> |
|---------------------------------------|---|
| 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            | 5 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  |

### **Mercury Minimization Plan (MMP) (Permit Part 1.3.8.)**

Section 301(a) of the CWA prohibits the discharge of any pollutant, including mercury, from a point source into waters of the United States except in compliance with Section 402 of the CWA. CWA Section 402 establishes the NPDES program, under which the EPA are authorized to administer the program issue permits that allow the discharge of pollutants into waters of the United States. These permits must contain (1) technology-based effluent limitations, which represent the degree of control that can be achieved by point sources using various levels of pollution control technology and (2) WQBELs when necessary to ensure that the receiving waters achieve applicable water quality requirements.

Most WQBELs are expressed as numeric limits on the amounts of specified pollutants that may be discharged. However, WQBELs may also be expressed in narrative form such as Best Management Practices (BMPs) or pollutant minimization measures when it is infeasible to calculate a numeric limit (40 CFR § 122.44(k)(3)). In addition, BMPs may be imposed in the form of NPDES permit conditions to supplement numeric effluent limitations when the permitting authority determines that such requirements are necessary to carry out the purposes and intent of the CWA (40 CFR § 122.44(k)(4)).

On January 8, 2001, the EPA announced the availability of its recommended CWA Section 304(a) water quality criterion for methylmercury. This water quality criterion, 0.3 milligram (mg) methylmercury per kilogram (kg) fish tissue wet weight, describes the concentration of methylmercury in freshwater and estuarine fish and shellfish tissue that should not be exceeded. The EPA recommended that the criterion be used as guidance by states, territories, and authorized tribes in establishing or updating water quality standards for waters of the United States. The EPA completed the Guidance for implementing the January 2001 Methylmercury Water Quality Criterion in April 2010.<sup>3</sup>

According to the Methylmercury Guidance, where a water column translation is not available and the permit writer determines that a numeric limit is infeasible to calculate, the permit writer should include the following permit conditions:

1. The reissued permit will include a trigger level established at the chronic water quality criteria of 0.77 µg/L and a requirement to develop and implement a Mercury Minimization Plan (MMP) if the trigger level is detected;
2. Require the permittee to implement a MMP tailored to the facility's potential to discharge mercury. This MMP may be used as a trigger level, reduction goal or used to supplement an enforceable numeric limit to further manage mercury discharges;
3. Require effluent monitoring using a sufficiently sensitive EPA-approved method to determine if the MMP is effective. (EPA Clean Sampling Method 1669 and Analytical Method 1631); and
4. Include a reopener clause to modify the permit conditions if the MMP is not found to be effective or if a water column of the fish tissue criterion is developed.

The Permittee is required in the reissued permit to develop an MMP tailored to the facility's potential to discharge mercury. At a minimum, the MMP shall include the following:

- Evaluation of existing best management plans or spill prevention and containment control plans;

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<sup>3</sup> United States Environmental Protection Agency, Office of Science and Technology (April 2010): Guidance for Implementing the January 2001 Methylmercury Water Quality Criterion – Final, <http://water.epa.gov/scitech/swguidance/standards/criteria/aqlife/pollutants/methylmercury/upload/mercury2010.pdf>

- 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.

**Chemical Inventory Reporting Requirement (Permit Part 1.3.9)**

In response to public comment the following chemical inventory requirement has been added.

The Permittee shall maintain an inventory of the quantities and concentrations of the specific chemicals used to formulate well treatment and workover fluids. If there is a discharge of these fluids, the chemical formulation, concentrations and discharge volumes of the fluids shall be submitted with the DMR. For discharges of well treatment and workover fluids, the type of operation that generated the discharge fluids shall also be reported.

**Reporting Requirements**

Effluent monitoring results obtained during the previous six (6) months shall be summarized and reported on **one** Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28 day of the month following the reporting period. If no discharge occurs during the reporting period, “no discharge” shall be reported. The reporting periods are listed below:

| <b>Reporting Period</b> | <b>Report Due Dates</b> |
|-------------------------|-------------------------|
| January 1 to June 30    | July 28                 |
| July 1 to December 31   | January 28              |

The DMR shall be sent to the EPA, and a copy of the report shall be sent to the Wind River Environmental Quality Commission at the following addresses:

- Original to: U.S. EPA, Region 8  
 Policy, Information Management and Environmental Justice Program (8ENF-PJ)  
 Attention: Director  
 1595 Wynkoop Street  
 Denver, Colorado 80202-1129
- Copy to: Director  
 Wind River Environmental Quality Commission  
 Wind River Indian Reservation  
 P.O. Box 217  
 Fort Washakie, WY 82514

## **Endangered Species Act (ESA) Requirements**

Section 7(a) of the Endangered Species Act requires federal agencies to ensure that any actions authorized, funded or carried out by an agency are not likely to jeopardize the continued existence of any federally-listed endangered or threatened species or adversely modify or destroy critical habitat of such species. Federally listed threatened, endangered and candidate species found in Fremont County, Wyoming include:

| <u>Species</u>   | <u>Status</u> |
|--|---------------|
| Bald Eagle ( <i>Haliaeetus leucocephalus</i> )           | R             |
| Yellow-billed Cuckoo ( <i>Coccyzus americanus</i> )      | C             |
| Greater Sage Grouse ( <i>Centrocercus urophasianus</i> ) | C             |
| Blowout Penstemon ( <i>Penstemon haydenii</i> )          | E             |
| Fremont County Rockcress ( <i>Boechea pusilla</i> )      | C             |
| Ute Ladies Tresses ( <i>Spiranthes diluvialis</i> )      | T             |
| Desert Yellowhead ( <i>Yermo xanthocephalus</i> )        | T             |
| Grizzly Bear ( <i>Ursus arctos horribillis</i> )         | T             |
| Black-footed Ferret ( <i>Mustela nigripes</i> )          | E             |
| Gray Wolf ( <i>Canis lupus</i> )                         | R             |
| Canada Lynx ( <i>Lynx canadensis</i> )                   | T             |
| North American Wolverine ( <i>Gulo gulo luscus</i> )     | C             |

T Threatened                      R Recovery  
E Endangered                      C Candidate

It does not appear likely that discharges from the Phoenix Production - Rolff Lake facility will result in significant impact to any endangered species or critical habitats. This permit renewal is not likely to adversely affect any of the species listed by the U. S. Fish and Wildlife Service under the Endangered Species or critical habitats of the tributary leading to Dry (Pasup) Creek.

## **National Historic Preservation Act (NHPA) Requirements**

Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470(f) requires that federal agencies consider the effects of federal undertakings on historic properties. The EPA has evaluated its planned reissuance of the NPDES permit for Phoenix Production - Rolff Lake Unit to assess this action's potential effects on any listed or eligible historic properties or cultural resources. This correspondence is typically conducted with the Tribal Historic Preservation Office (THPO).

The EPA does not anticipate any impacts on listed/eligible historic or cultural properties because this permit is a renewal and will not be associated with any new ground disturbances or changes to the volume or point of discharge. During the public comment period, the EPA will notify the Tribal Historic Preservation Offices (THPOs) of the Eastern Shoshone and Northern Arapaho Tribes of the planned issuance of this NPDES permit and requested their input on potential effects on historic properties and EPA's preliminary determination in this regard. No comments were received.

## **Miscellaneous**

The effective date and the expiration date of the permit will be determined at the time of permit issuance. The intention is to renew the permit for a period of approximately five years, but not to exceed 5 years.

Permit drafted by Staff, 8P-W-WW

Permit reviewed by Robert Shankland, SEE, 8P-W-WW

Permit reviewed by Bruce Kent, 8P-W-WW

## **Addendum to the Statement of Basis and Permit**

The proposed permit was public noticed on June 10, 2013. Comments were received from the Permittee and the general public. The comments received and the responses to those comments are given in separate documents titled “Response to General Comments on Permits WY-0020338, WY-0024953, WY-0024945, WY-0025232, WY-0025607” and “Response to Comments Specific to Phoenix Production Company Rolff Lake WY-0024945.” The changes listed below were made as a result of comments received. The changes will not require going back to public notice.

### Changes to Statement of Basis

1. Page 5: The definition of a 3B stream classification has been corrected.
2. Page 7: The statement “The limits of 7,500  $\mu\text{S}/\text{cm}$  for conductance, 2,000 mg/L for chloride, 3,000 mg/L for sulfate, and 5,000 mg/L for TDS have been in effect since the facility has been covered under an NPDES permit.” was deleted.
3. Page 6, Table 1; Page 12, Table 3; Page 13, Table 4; Page 14, Table 5; Page 15, Sulfide; Page 19, Table 8; Page 20, Table 9 and footnote d/; and Page 21, Compliance Schedule: The clarification of the pollutant sulfide “as  $\text{H}_2\text{S}$ ” in lieu of Total Sulfide has been added.
4. Page 21: Iron, which was inadvertently omitted from the public noticed Statement of Basis, has been added to the “Toxic Pollutants Screen” monitoring requirement.
5. Page 21: A section heading “Method Detection Limits (Permit Part 1.3.5.) was added to provide a physical document separation and clarification from the “Toxic Pollutants Screen” requirements. This is intended to provide detection limits for those compounds/elements should they be required to be monitored.
6. Page 23: A new section “Chemical Inventory Reporting Requirement (Permit Part 1.3.9)” has been added.
7. EPA made additional corrections/clarifications to typographical errors and unclear statements at on various pages throughout the document.

### Changes to the Permit

1. Page 2, Table of Contents: Part 1.3.5. – Method Detection Limits was added. All subsequent Part numbering was adjusted accordingly.
2. Page 2, Table of Contents: Part 1.3.9. – Inventory Reporting Requirement was added.
3. Page 5, Part 1.3.1.3. Table; Page 6, Part 1.3.2. Table and footnote d/; Page 7, Compliance Schedule: For the pollutant sulfide, “as  $\text{H}_2\text{S}$ ” was added in lieu of Total Sulfide.
4. Page 8, Toxic Pollutants Screen Part 1.3.4.: Iron has been added to the list of required elements to be monitored.

5. Page 8, Method Detection Limits Part 1.3.5.: The new Part heading was added.
6. Page 15, Part 3.2, Penalties for Violations of Permit Conditions: This Part was updated to read “... February 13, 2004 (69 Fed. Reg. 7121-7127) and December 11, 2008 (73 Fed. Reg. 75340-75346). On November 6, 2013 (78 Fed. Reg. 66643-66648) EPA once again adjusted its civil monetary penalties. The civil and criminal penalties, as of December 6, 2013, for violations of the Act (including permit conditions) are given below:”
7. Page 16, Part 3.2.5.: This Part was updated to read “...Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed \$16,000 per day for each day during which the violation continues, with the maximum amount not to exceed \$187,500.”

In addition to the above changes, EPA also made other minor editorial clarifications to the permit and the statement of basis documents.

Revised by EPA Staff February 24, 2015