

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
OF THE STATE OF WYOMING**

IN THE MATTER OF:
NOTICE OF APPEAL AND REQUEST
FOR STAY BY THE WYOMING
REFINING COMPANY REGARDING
ITS WYOMING POLLUTANT
DISCHARGE ELIMINATION
SYSTEM PERMIT NO. WY0001163
ISSUED OCTOBER 1, 2024.

DOCKET NO.

FILED

OCT 30 2024

**ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

APPEAL OF PERMIT RENEWAL AND REQUEST FOR STAY

Wyoming Refining Company (“WRC”), through its undersigned counsel, hereby submits this Notice of Appeal and Request for Stay of certain conditions contained in Wyoming Pollutant Discharge Elimination System Permit No. WY0001163 (“the Permit”) issued by the Department of Environmental Quality (“DEQ”) to WRC, effective on October 1, 2024. WRC requests a hearing pursuant to the Environmental Quality Act (“EQA”), the Wyoming Administrative Procedure Act (“WAPA”), and the Rules of Practice and Procedure of the Environmental Quality Council (“EQC”). In support of this appeal, Petitioner advises the EQC as follows:

I. Information About the Petitioner

The petitioner filing this appeal is:

Wyoming Refining Company
10 Stampede Street
Newcastle, WY 82701

Petitioner is represented in this matter by Victoria A. Marquis and Kurt W. Shanahan of Crowley Fleck, PLLP, Transwestern Plaza II, 490 N. 31st Street, Suite 500, Billings, MT 59101.

Correspondence and information related to this appeal should be served on undersigned counsel

and Brian Pischke, at Wyoming Refining Company using the Newcastle address listed above.

II. Background

WRC operates a crude oil refinery (“the Facility”), located in Newcastle, Wyoming. The Facility refines crude oil feedstock, primarily through topping and cracking processes. The effluent from the various refinery processes is treated in the Facility’s wastewater treatment system before it is pumped to a treatment pond located approximately two miles south of the Facility referred to as the “Windmill Draw Impoundment” or the “Frog Pond.” The Windmill Draw Impoundment provides further treatment to the wastewater through settling and aeration. The Windmill Draw Impoundment discharges to Windmill Draw. The monitoring and compliance location for this discharge is Outfall 001 located approximately half a mile downstream of the impoundment. Outfall 001’s location was established by a Second Stipulation between WRC and the DEQ, as part of a Consent Decree entered in the First Judicial District, for Laramie County, Docket No. 86-108, in May of 1985. The Second Stipulation is attached as Exhibit A. The First Judicial Court retains jurisdiction over the parties as part of the Second Stipulation. The land surrounding Outfall 001 is on private land not owned by WRC and is used as pasture for cattle and is frequented by wildlife.

Separate from the process wastewater system, the Facility collects and stores stormwater through a series of onsite stormwater retention ponds. The stormwater is manually discharged through Outfall 002 into Little Oil Creek, a Class 3B water, as necessary. Outfall 002 is also permitted to discharge co-mingled treated process wastewater and stormwater under emergency situations to protect the integrity of the stormwater system.

The previous version of the Permit expired on July 31, 2023. WRC submitted a permit renewal application, including supplemental information and a technical evaluation of the aeration

system used in the Windmill Draw Impoundment to the DEQ on January 24, 2023. The renewal application and supporting documentation are attached as Exhibit B. The previous Permit was administratively extended, on June 29, 2023, pending the issuance of the Permit currently being appealed. DEQ's email administratively extending permit attached as Exhibit C. DEQ provided an opportunity for WRC to review a draft version of the Permit and its supporting Statement of Basis, to which WRC responded with comments on March 5, 2024. Exhibit D, attached. DEQ replied to WRC's comments on March 7, 2024. Exhibit E, attached. The DEQ publicly noticed the draft permit on May 17, 2024. WRC submitted comments to the DEQ on June 17, 2024 highlighting its concerns and issues with the draft permit. Exhibit F, attached. WRC received DEQ's Response to Comments and the final Permit on September 30, 2024, the Permit took effect on October 1, 2024. The DEQ's Response to Comments is attached as Exhibit G. The Statement of Basis for the renewed Permit is attached as Exhibit H. The renewed Permit is attached as Exhibit I. The Appendix to the renewed Permit is attached as Exhibit J. WRC is timely filing this appeal in accordance with Wyo. Admin. Code 020.0008.1 § 8.

III. Action Being Appealed.

WRC appeals certain conditions of the Permit on the grounds that the conditions are not supported by the facts available to the DEQ, are not consistent with the Second Stipulation, and are inconsistent with the requirements of the Environmental Quality Act, Chapters 1 and 2 of the Wyoming Water quality Rules and Regulations and the Wyoming Administrative Procedure Act. WRC appeals the following conditions of the Permit.

A. E.coli limits

For the first time, the DEQ is requiring E.coli bacteria effluent limits for WRC's discharge through Outfall 001. The DEQ's reasoning for the E.coli limits is the Facility and its Outfalls are

located within the Primary Contact Recreation Area as described on the DEQ's Recreation Uses Web Map.¹ While the Facility and Outfall 002, are within a Primary Contact Recreation Area, the location of Outfall 001 is outside the Primary Contact Recreation Area. *See* Exhibit K. Outfall 001 is located approximately half a mile downstream from the Windmill Draw Impoundment on open pasture land containing livestock and wildlife. WRC does not own or have control over the property where Outfall 001 is located; therefore, livestock and wildlife have access to the stream bed between the Windmill Draw Impoundment and Outfall 001. The Windmill Draw Impoundment is fenced, but it and other ponds at the Facility are accessible to birds and other wildlife. There is no direct source of E.coli bacteria within the Facility's topping and cracking refining processes or its wastewater treatment process. Therefore, the likely source of any E.coli bacteria is from livestock, wildlife, and birds, which are beyond WRC's control.

The DEQ also misidentifies the receiving waterbody for Outfall 001. In DEQ's Response to Comments, the DEQ misidentifies the receiving waterbody of Outfall 001 as Little Oil Creek. Ex. G p. 8, Comment 7(i). Outfall 002 discharges to Little Oil Creek but is not subject to E.coli limits because it is a stormwater discharge. Based on DEQ's misidentification of the receiving water body and the location of Outfall 001, the effluent limits imposed in the Permit do not conform with Wyoming's Water Quality Rules.

B. Installation of SP1.

Due to alleged compliance issues over the last permit term and DEQ's assertion that there is "no definitive scientific information that demonstrates the treatment" provided by the aerated Windmill Pond Impoundment and area between the Windmill Pond Impoundment and Outfall 001,

¹ Recreation Designated Uses Web Map available at <https://wdeq.maps.arcgis.com/apps/webappviewer/index.html?id=177cf0d99fb34b1aac1664944f754b7d>

the DEQ is requiring WRC to install a new monitoring and sampling location (“SP1”) downstream of WRC’s final treatment unit but upstream of the Windmill Draw Impoundment. Ex. G, p. 3, Comment 2a. DEQ is requiring SP1 to be sampled at the same frequency as Outfall 001 (twice a month), even when sampling of Outfall 001 cannot be conducted. Ex. I at p. 3. As an initial matter, DEQ’s description of the purpose and location of SP1 is inconsistent. In its Responses to Comments, DEQ asserts that “the purpose of the sampling port is to compare refinery process water as it leaves the plant to post-Frog Pond treated water at outfall 001.” Ex. G, p. 3. However, the Statement of Basis characterizes the location as “immediately downstream of the facility’s final treatment unit and prior to discharge into Windmill Draw.” Ex. H ,p. 3. Because the Frog Pond/Windmill Draw Impoundment and the downgradient area provide the facility’s “final treatment,” the location provided in the Statement of Basis is inconsistent with the language in the Response to Comments.

The DEQ’s statement of alleged compliance issues mischaracterizes the number and cause of the alleged compliance issues. The exceedances listed occurred prior to issuance of the previous permit in June 2018, do not represent significant non-compliance, did not result from normal operation of the Facility, or were caused by non-point sources outside of WRC’s Facility and beyond WRC’s control. Ex. H, p. 4; Ex. D, pp. 2-3; Ex. F, pp. 2-3.

The DEQ alleges the twice monthly monitoring requirement is standard practice “for facilities with significant compliance histories” but DEQ will reduce the monitoring requirement in the next permit cycle if WRC “achieves an acceptable compliance record” during the current Permit’s term. Ex. G, p. 6. However, neither “significant compliance histories” nor “acceptable compliance record” are defined terms in the EQA or in DEQ’s regulations. It is unclear what DEQ would consider as an “acceptable compliance history” in order to reduce the monitoring

requirement. The exceedances do not rise to the level of a “significant compliance history” under any interpretation and cannot rationally be the basis for additional permit requirements.

DEQ’s rationale for requiring SP1 is not based on the information provided by WRC to the DEQ. As part of the renewal application, WRC submitted a technical evaluation of the aerators it uses at the Windmill Draw Impoundment. Ex. B. The Windmill Draw Impoundment provides treatment through sediment trapping, nutrient removal, and chemical detoxification. Aerators and sediment settling are standard treatment for wastewater treatment systems, especially lagoons and ponds. The installation of SP1 will double WRC’s monitoring costs each month. The inclusion of SP1 and the resulting increased monitoring cost is unnecessary and overly burdensome.

C. Required Chromium Testing.

WRC initially obtained a permit for its discharges from Outfall 001 as part of a Second Stipulation, issued by the First Judicial District Court for Laramie County, Docket No. 86-108 in May 1985, which modified the Consent Decree between the DEQ and WRC. Ex. A. The DEQ and WRC both acknowledge the Consent Decree governs the Permit and the District Court retains jurisdiction over this matter. Ex. I, p. 6 (Special Condition #2). In the Second Stipulation, DEQ “waives any chromium monitoring in view of [WRC’s] previous monitoring test results” and the fact that WRC did not then “utilize chromium-based compounds in any part of its process” and did not intend to in the future. Ex. A, ¶6. However, the Second Stipulation required that if “there is any change in this policy” of chromium non-use, WRC would “confirm the same to DEQ in writing and will commence conducting chromium monitoring on a quarterly basis.” *Id.*

Despite the binding requirements in the Consent Decree, its incorporation by the DEQ in the Permit’s Special Conditions (Ex. I, p. 6), and the fact that WRC has not changed its policy of chromium non-use, the DEQ now requires WRC to monitor its discharge for Chromium. In the

Statement of Basis, the DEQ rationalizes the imposition of monitoring by stating the “facility is likely constructed using chrome steel...has the ability to shed chromium in facility wastewater discharges due to wear and/tear.” Ex. H, p. 2. These statements directly conflict with the Second Stipulation, and because WRC has not begun using Chromium compounds in its refining process, the requirement to conduct Chromium monitoring, in the Second Stipulation and Special Condition #1, has not been triggered. The inclusion of Chromium monitoring in the Permit is in direct conflict with the Second Stipulation, which controls the Permit.

To further rationalize this requirement, the DEQ insists the Chromium monitoring is required “[a]s there is no wastewater chromium data available at this facility.” Ex. H, p. 2. However, Special Condition #1 also requires the DEQ to conduct monitoring for Chromium compounds when conducting compliance monitoring at the facility. Ex. I, p. 6. As part of the renewal application, WRC conducted Chromium testing in 2017 and 2022. The results were below the detection limits imposed in the Permit. Ex. B, p. XX. These results were submitted to the DEQ as part of the permit renewal. As required by Special Condition #1, the DEQ is required to conduct Chromium monitoring as part of its compliance monitoring at the Facility. Ex. I, p. 2. To date WRC has not been informed of any Chromium monitoring results from DEQ that would trigger additional monitoring requirements. In DEQ’s Response to Comments, DEQ states it does not have a copy of the Second Stipulation. Ex. G, p.4, Comment 3. However, the DEQ includes and acknowledges it is bound by the Second Stipulation within the Permit. Ex. I, p. 2. Because the DEQ has been conducting Chromium monitoring and WRC has not begun using Chromium compounds in its refinery process, the inclusion of Chromium monitoring violates the Second Stipulation and is not justified based on the facts before the DEQ.

D. Additional Sampling and Monitoring Requirements.

The Permit also contains additional sampling and monitoring requirements for effluent constituents not previously required. The DEQ is also requiring sampling of constituents for which there are no limits in Wyoming regulations. Further, the DEQ does not specify the specific form of the constituents the DEQ is requiring WRC to sample and report. The lack of clarity for monitoring constituents for which there are no limits does not provide WRC with a clear and consistent permit.

The Permit requires WRC to conduct annual sampling for Nitrogen, Phosphorus, and Sulfate at both Outfalls. WRC submitted test results for these constituents as part of its permit renewal application. Ex. B. Currently, Phosphorus, Nitrogen, and Sulfate have no required aquatic life standards and there are no Technology-Based Effluent Limits (“TBEL”) for these constituents. Ex. H, p. 6. Further, the Permit does not specify which form of Phosphorus WRC is required to test and monitor for. Ex. I, p. 4. As there are no applicable Wyoming or federal TBEL limits for these constituents it is unclear the purpose the additional monitoring serves. This additional monitoring adds an increase cost to WRC’s operations without serving the purposes of the EQA.

For the first time ever, WRC is required to sample for Total Organic Carbon (“TOC”) at Outfall 001 on a monthly basis. The sampling requirement for TOC at Outfall 001 is unnecessary and redundant. TOC is an indicator for treated wastewater. Since Outfall 001 only discharges treated wastewater, no such indicator is necessary. WRC has been and still is required to test its stormwater discharge from Outfall 002 for TOC prior to discharge. Testing for TOC is required at Outfall 002 since treated process wastewater may be discharged under certain conditions. If the TOC is above 110 mg/l, certain effluent limits apply to Outfall 002’s discharge. Ex. I, pp. 4-5. Currently there are no effluent limitations in Wyoming for TOC. The test results for TOC from

Outfall 001, submitted to DEQ as part of the renewal application, was 34.8 mg/l. Ex. B. This result is below half of the limit imposed on Outfall 002 when it is discharging treated process wastewater. The additional TOC monitoring and limitation at Outfall 001 are not rational.

The Permit requires annual monitoring for Arsenic from both outfalls. The additional monitoring for Arsenic is a new requirement in the Permit. Arsenic has aquatic life standard of 340 ug/l for Acute and 150 ug/l for Chronic. As reported in the renewal application the water quality test result for Arsenic were 12 ug/l. Ex. B. This is well below the standard applicable to WRC's discharge and WRC shows no reasonable potential to exceed the Arsenic water quality standard. Additionally, the receiving waterbody to which Outfall 001 discharges is an ephemeral stream and does not support aquatic life. The annual monitoring requirements for Arsenic should be removed from the Permit.

Annual monitoring for Acrolein is also being required for the first time in this Permit. Acrolein has an aquatic life standard of 3 ug/l for both Acute and Chronic values. The test results included in the renewal application showed results below the detection limits of <100 ug/l for Outfall 001 and <20 ug/l for Outfall 002. Ex. B. The previous testing results submitted to the DEQ in 2013 and 2018 as part of the previous renewals of the Permit were all non-detect with a reporting limit of 20 ug/l. The monitoring requirement for Acrolein should be removed from the Permit.

E. WET Testing.

DEQ is requiring WRC to perform Whole Effluent Toxicity ("WET") testing for both outfalls. WET testing is used to measure the total toxic effect of an effluent. Wyo. Admin. Code 020.0011.2 § 3 (ciii). The Statement of Basis states WRC is required to conduct WET testing based on its "past history of effluent limit violations and the large number of chemical additives

utilized” at the Facility. Ex. H, p. 2. DEQ’s reasoning for requiring WET testing for the stormwater discharge from Outfall 002 is based on unsubstantiated and hypothetical past compliance issues. DEQ states:

[a]s stormwater discharge contacts various parts of the refinery process, which may or may not be contaminated from historical chemical and hydrocarbon spills due to its long operating history ... when environmental considerations were either absent or considerably less important than they are now.

Ex. G, p. 5.

WRC tracks, remediates, and reports spills and releases as required under the applicable regulations. DEQ does not provide evidence of spills or contamination. As the responsible agency DEQ would be aware of such issues and would be able to provide proof of “contamination” if there was any. To justify a permit requirement on hypothetical situations which in DEQ’s own words “may or may not be” present is beyond DEQ’s regulatory authority.

DEQ’s reasoning for requiring WET testing on Outfall 001 is similar based on mischaracterization of facts. Included in the Statement of Basis, is Table 1A showing the reported “Permit Limit Exceedances.” Ex. H, pp. 3-4. However, DEQ relies on exceedances based on previous versions of the Permit, exceedance that do not represent significant non-compliance, did not result from normal operation of the Facility, or were caused by non-point sources outside of WRC’s Facility and beyond WRC’s control. Ex. H, p. 4; Ex. D, pp. 2-3; Ex. F, pp. 2-3. Therefore, DEQ has no rational justification for the WET testing.

DEQ further rationalizes WET testing based on the chemical used by WRC in its wastewater treatment system. WRC uses the chemicals listed in Appendix B, Table 1R, in various concentrations in its wastewater treatment system. Ex. J, p.1. The chemical with the highest daily injection rate is Caustic Soda 50% at an average of 27.4 gallons per day. Ex. F, p. 5, Comment 4. Caustic Soda makes up less than 0.008% of the wastewater discharged into the Windmill Draw

Impoundment. *Id.* WRC uses the other chemicals listed in Table 1R in lesser concentrations. *Id.* Therefore, they account for even smaller percentage of the wastewater. Further, the DEQ's reasoning does not account for the dilution and breakdown of the chemicals as they pass through the wastewater treatment system or the fact that the chemicals are a necessary part of the treatment process. The requirement for WET testing appears irrational and should not be based on the low concentrations of chemicals used in WRC's wastewater treatment system.

The WET testing requirements do not take into account the classification of the receiving waterbodies. Outfall 001 discharges into an ephemeral stream that does not support aquatic life. Outfall 002 discharges into a Class 3B stream. Class 3 streams are protected for aquatic life but do not support nor have the potential to support fish populations. Wyo. Admin. Code 020.0011.1 § 4 (c). WRC is required to perform WET testing on both *Ceriodaphnia dubia* (water flea) and *Pimephales promelas* (fathead minnow). Ex. I, p. 6. Since Class 3 streams are not supportive nor have the potential to support fish populations requiring testing for *Pimephales promelas*, the testing does not conform with the stream classification and the goals of the DEQ to protect Class 3B streams for aquatic life other than fish. The WET testing requirements should be removed from the Permit.

F. Additional permit errors/inconsistencies.

WRC notes the Permit also contains inconsistencies and asks the DEQ to revise the inconsistencies to ensure clarity of WRC's responsibilities under the Permit. The inconsistencies are as follows.

1. Table 1, located on page 3 of the Permit notes E.coli at Outfall 001 is to be sampled seven times per quarter but Footnote 8 of Table 1 requires a total of nine samples - five samples to be taken in one month of the quarter and two samples to be taken in each of the other two months. Footnote 8 of Table 1 should be revised to require only seven samples per quarter. Ex. I, p. 3
2. Statement of Basis, page 2 notes SPI is to be sampled on the same day as sampling

from Outfall 001 and/or Outfall 002. Ex. H, p.2. DEQ stated in its Response to Comments “it is not WDEQ’s intent to compare stormwater discharged at outfall 002 to effluent results obtained at SP1. Ex. G, p. 3. References to Outfall 002 need to be removed from the discussion of sampling from SP1.

3. Statement of Basis inaccurately describes the operation of Outfall 002. Outfall 002 is manually released through a canal gate and inflatable pipe plug. The Statement of Basis inaccurately describes this as an overflow structure which it is not. Ex. H, p 2.
4. The Statement of Basis, page 9 notes “ due to the above restrictions, this facility is prohibited from discharging any process wastewater flows through outfall 002.” Ex. H, p. 9. This conflicts with the Permit because WRC “is prohibited from discharging any untreated refinery process wastewaters at outfall 002.” Ex. I, p. 5. The Statement of Basis needs to be revised to accurately reflect the conditions of the Permit.
5. The TOC limits for Outfall 002 within the Permit need to be corrected to the 110 mg/L limit to align with DEQ’s Response to Comment 7.L. Exhibit G, p. 9
6. Reference throughout the Statement of Basis need to be corrected to reflect the Facility is permitted to refine 20,000 barrels per day of crude feedstock but does not actually refine that amount. The Facility typically refines approximately 17,000 barrels per day.
7. The reasonable potential analysis in Table 1B in the Statement of Basis, is based on the sum loads of both Outfalls. Ex. H, pp. 5-8, n. 7. The outfalls have separate and distinct effluent sources. The reasonable potential analysis needs to be separated for each outfall and the load limits established in the Permit need to be revised to accurately reflect the source of wastewater for each outfall.

IV. Request to Stay Certain Permit Conditions.

WRC requests the EQC issue a stay of the Permit’s new Chromium sampling and monitoring requirements, the installation of SP1 and accompanying sampling and monitoring requirements, and the new E. Coli limits pending the outcome of this Appeal. The portions of the Permit not stayed would be effective and binding on WRC. WRC has the right to appeal “final actions of the Administrators or Director ...within thirty (30) days of notification of such action” Wyo. Admin Code 020.008.1 §8. The DEQ provided its Response to Comments and the Permit to WRC, on September 30, 2024. Ex. C. The Permit went into effect one day later, on October 1, 2024, leaving WRC no time to negotiate with DEQ for a stay of any permit provisions or to appeal and request a stay prior to the effective date of the Permit.

The EQA gives the EQC the authority to “[o]rder that any permit, license, certifications or variance be granted, suspended, revoked or modified.” Wyo. Stat. Ann. § 35-11-112(c)(ii). The EQC “shall...[c]onduct hearing in any case contesting the grant, denial, suspension, revocation or renewal of any permit” otherwise required by the Act. Wyo. Stat. Ann. § 35-11-112(a)(iv). WRC respectfully requests the EQC immediately, prior to hearing, modify the Permit to stay the contested Chromium limitations, new sampling port SP1, and E.coli limitations during the pendency of this Appeal. Doing so aligns with federal rules, which require an automatic stay of contested provisions of National Pollution Discharge Permits during the pendency of the appeal. 40 C.F.R. § 124.16.

Because none of the challenged provisions stem from an enforcement action or ongoing compliance issue, granting a stay will not create compliance issues. Additionally, the limited modification pending the final outcome of this Appeal still allows the DEQ to enforce the unappealed provisions of the Permit, which effectively allows continuation of consistent regulation, ensuring protection of Wyoming state waters.

Without a stay, WRC’s right to appeal is essential nullified because it will be forced to comply with and potentially be subject to enforcement actions based on unwarranted conditions in the Permit. Absent a stay, WRC will incur unrecoverable costs of sampling, analyzing, reporting results, and potentially, installation of infrastructure depending on where the new monitoring point is located and approved. Furthermore, WRC expects the uncontrollable presence of birds, wildlife, and livestock near Outfall 001 will create compliance issues beyond WRC’s control, which also means WRC may be at risk of enforcement actions. WRC requests the EQC stay not all the contested provisions, but the most onerous subset, including the requirements for Chromium sampling and monitoring, the installation of SP1, and the E. Coli limits, during this Appeal.

The Chromium testing, as required by the Permit, should be stayed as it violates the Second Stipulation between the parties. The DEQ and WRC are both bound by the conditions of the Second Stipulation and the Judicial District Court still retains jurisdiction over the matter. The DEQ acknowledges the Second Stipulation still burdens both parties, but then requires Chromium monitoring in direct violation of the Second Stipulation. This places WRC in the untenable position of being forced to choose to violate a court order or risk not complying with a permit condition. The EQC should stay this permit condition, to ensure that no violation, or voiding of the Second Stipulation occurs absent judicial intervention.

The E.coli limitations within the Permit and the DEQ's justification are contrary to Wyoming Regulations. DEQ's reasoning for imposing the E.coli limits for the first time in this Permit is based on its misunderstanding of where Outfall 001 is located. Contrary to DEQ's statements, Outfall 001 is located outside of the Primary Recreation Area and discharges to Windmill Draw. An "agency's own rules and regulations have the force and effect of law, and an administrative agency must follow its own rules and regulations or face reversal of its action." *Leal v. State ex rel. Dept. of Workforce Services, Workers' Compen. Div.*, 553 P.3d 1181, 1192 (Wyo. 2024). If WRC complies with the E.coli limitations as stated in the Permit, based on DEQ's flawed reasoning, they could possibly be subject to unnecessary compliance violations for stricter limits than actually should apply to their discharge. Without a stay, WRC is required to comply with effluent limitations based on patently incorrect information and be held responsible for non-point sources over which WRC has no control.

The requirement to install and monitor SP1 will double WRC's monitoring costs and impose an unnecessary and unwarranted permit condition. The investment of time, money, and manpower to install and monitor SP1 would deprive WRC the ability to pursue other business

ventures. The loss of the ability to pursue business ventures is an irreparable harm. See *Odebrecht Const., Inc. v. See., Florida Dept. of Transp.*, 715 F.3d 1268, 1288 (8th Cir. 2013). The grant of a stay would allow the EQC to decide the merits of requiring WRC to install and monitor SP1 while not committing WRC to expend resources to comply with a contested permit condition.

V. Relief Requested.

WRC respectfully requests that the EQC grant the following relief:

1. Grant WRC a contested case hearing on the challenged provisions of WYPDES Permit No. WY0001163 pursuant to the EQA, the WAPA, and the EQC's Rules of Practice and Procedure.
2. Disapprove of the complained-of conditions in the WYPDES permit specifically:
 - a. Remand the Permit to the DEQ, with instruction to remove the E.coli bacteria effluent limitations from the Permit.
 - b. Remand the Permit to the DEQ, with instruction to remove the unnecessary installation and sampling of SP 1.
 - c. Remand the Permit to the DEQ, with instruction to remove the Chromium sampling and provide a Permit that meets the requirements of the Second Stipulation between the parties.
 - d. Remand the Permit to the DEQ, with instruction to remove the unnecessary sampling and monitoring requirements, including the WET Testing requirements.
 - e. Remand the Permit to the DEQ, to address the inconsistencies within the Permit.
3. Stay the effectiveness of the requested Permit conditions while this Appeal proceeds.

4. Provide such other relief as the EQC determines just and reasonable under the circumstances.

Dated this 30th day of October 2024.

/s/ Victoria A. Marquis
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P. O. Box 2529
Billings, MT 59103-2529

Attorneys for Wyoming Refinery Company

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon the following counsel of record, by the means designated below, this 30th day of October, 2024:

<input type="checkbox"/> U.S. Mail	Wyoming Environmental Quality Council
<input type="checkbox"/> FedEx	2300 Capitol Ave,
<input checked="" type="checkbox"/> Hand-Delivery	Hathaway Bldg 1st, Rm, 136
<input type="checkbox"/> Email	Cheyenne, WY 82002
<input type="checkbox"/> Sharefile	

<input checked="" type="checkbox"/> U.S. Mail	Todd Parfitt, Director
<input type="checkbox"/> FedEx	Department of Environmental Quality
<input type="checkbox"/> Hand-Delivery	200 West 17th St.
<input type="checkbox"/> Email	Cheyenne, WY 82002
<input type="checkbox"/> Sharefile	

/s/ Victoria A. Marquis _____
CROWLEY FLECK PLLP