

# **EXHIBIT A**

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
IN AND FOR LARAMIE COUNTY, STATE OF WYOMING

**FILED**

Docket No. 86-108

MAY 22 1985

PEOPLE OF THE STATE )  
OF WYOMING, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
WYOMING REFINING COMPANY, )  
Division of Hermes )  
Products, Inc., )  
 )  
Defendant. )

GERRIE E. BISHOP  
CLERK OF THE DISTRICT COURT

SECOND STIPULATION  
OF THE PARTIES

COME NOW the parties in the above-entitled matter, by and through their respective attorneys, and hereby make the following statement of facts and stipulation:

STATEMENT OF FACTS

On August 24, 1979, the Court entered a Consent Decree in the above-entitled civil action based upon a Stipulation of the parties. Pursuant to said Consent Decree, Wyoming Refining Company constructed a wastewater evaporation containment pond at a cost exceeding One Million Dollars. Sometime after the construction of the containment pond, surface water began to appear downstream in an otherwise normally dry draw. Wyoming Refining Company conducted hydrologic and geologic studies of the area around the containment pond. The parties herein disagreed as to the source of this said surface water, based upon the data collected. Wyoming Refining Company has agreed to monitor water quality downstream from the containment pond, and the Water Quality Division of the Department of Environmental Quality has agreed to issue a discharge permit pursuant to the following stipulation:

STIPULATION

1. The parties agree that a discharge permit should be issued to the Defendant for its containment pond by the Department of Environmental Quality, Water Quality Division, (DEQ/WQD) pursuant to its authority.

2. The parameters to be monitored, the effluent limitations to be established, and the frequency of self monitoring by the permittee (the Defendant herein) shall be as described in the discharge permit, No. WY-0001163, attached hereto and incorporated herein by reference.

3. The Defendant shall monitor these parameters. Monitoring will be conducted at the flume which has been installed in Windmill Draw. For purposes of reporting, the parties designate this site as Sl. The effluent limitations aforesaid will remain static for purposes of this monitoring. Monitoring will be quarterly.

4. Sampling tests conducted by the Defendant pursuant to its monitoring requirements contained in its discharge permit may be run at Defendant's laboratory, provided that the required sampling procedures are followed. DEQ may request that split sampling of these tests be conducted by the Defendant, and the Defendant shall then ship one of each of the split samples to DEQ/WQD for DEQ/WQD to analyze.

5. When DEQ/WQD intends to conduct a sampling inspection of the surface water or subsurface water below Defendant's containment pond, pursuant to the authority granted by W.S. 35-11-109, it will provide for twenty-four hour advance notice to the Defendant.

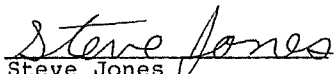
6. DEQ waives any chromium monitoring in view of Defendant's previous monitoring test results from monitor wells and flumes installed on or adjacent to its

facilities. The Defendant states that it will not utilize chromium-based compounds in any part of its process at its refinery in Newcastle, Wyoming, and in the event that there is any change in this policy, it will promptly confirm the same to DEQ in writing and will commence conducting chromium monitoring on a quarterly basis.

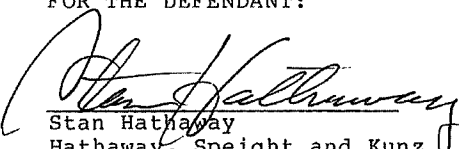
7. DEQ/WQD agrees to provide Defendant with any certification necessary to afford it appropriate tax treatment for the construction of its wastewater containment evaporation pond.

8. The parties agree that the Court shall retain jurisdiction of this matter for the purpose of enabling either of the parties to apply to the Court at any time for any further orders and directions as may be necessary and appropriate for the effectuation of the Decree or the Modified Consent Decree contemplated; for the modification, cancellation or termination of any of the provisions of the Modified Consent Decree, including the discharge permit herein proposed; or for the enforcement of, compliance with and punishment of any violations of the Modified Consent Decree, or for any other reason as justice may require.

FOR THE PLAINTIFFS:

  
Steve Jones  
Assistant Attorney General  
123 Capitol Building  
Cheyenne, Wyoming 82002

FOR THE DEFENDANT:

  
Stan Hathaway  
Hathaway, Speight and Kunz  
One Pioneer Center, Suite 402  
2424 Pioneer Avenue  
Cheyenne, Wyoming 82001

STATEMENT OF BASIS

Modification

APPLICANT NAME: Wyoming Refining Company  
MAILING ADDRESS: 1600 Broadway  
Suite 2600  
Denver, CO 80202  
FACILITY LOCATION: Weston County  
PERMIT NUMBER: Wy-0001163

The Wyoming Refining Company is the operator of an oil refinery with an average stream flow of up to 12,500 barrels per day which is located in Newcastle, Wyoming. Process wastewater receives oil separation, settling and biological treatment at the refinery site and is then pumped to a contaminant pond located approximately two miles south of the refinery. The containment pond was originally designed to achieve "no discharge" however, seepage through the pond dike or from other sources has developed resulting in a discharge to Windmill Draw (Class IV Water).

The proposed permit would allow the seepage to continue, however, it requires that the seepage be collected, monitored for quality and quantity, and meet "best available treatment standards" for non-conventional pollutants and "best conventional treatment standards" for conventional pollutants. The attached tables provide detailed information on calculation of the effluent limits which were based on a recent EPA agreement with the Natural Resources Defense Council and the American Petroleum Institute.

This discharge permit has been issued pursuant to the Second Stipulation of the Parties filed in May, 1985, in the District Court, First Judicial District, in and for Laramie County, Wyoming, Docket No. 85-108, and the Modified Consent Decree entered by Judge Joseph F. Maier in this matter. It is recognized that the District Court retains continuing jurisdiction over this matter.

Submission of self-monitoring data will be required quarterly and the permit is scheduled to expire on March 31, 1990.

John Wagner  
Wyoming DEQ  
May 6, 1985

TABLE I

Cracking Subcategory

Calculation of Effluent Limits

BAT/BCT\*

Parameter	1000 bbl/day Production	Size Factor	Process Factor	Daily Max	Daily Avg	Daily Max	Daily Avg
				lbs/1000 bbl	lbs/1000 bbl	lbs/day	lbs/day
BOD5	12.5	.91	.74	9.9	5.5	83.3	46.3
TSS	12.5	.91	.74	6.9	4.4	58.1	37.0
COD	12.5	.91	.74	74	38.4	623	323
Oil and Grease	12.5	.91	.74	3.0	1.6	25.3	13.5
Ammonia (as N)	12.5	.91	.74	6.6	3.0	55.6	25.3
Sulfide	12.5	.91	.74	.065	.029	.55	.24
pH (units)	N/A	N/A	N/A	N/A	N/A	6.0-9.0	6.0-9.0

Parameter	1000 bbl/day Production	Process Factor	Daily Max	Daily Avg	Daily Max	Daily Avg
			lbs/1000 bbl	lbs/1000 bbl	lbs/day	lbs/day
Phenolic Compounds (4AAP)	12.5	Crude Atmos Dist	.013	.003	.1625	.0375
	12.5	Crude Desalting	.013	.003	.1625	.0375
	4.0	Cracking-				
		Moving Bed	.147	.036	.5880	.219
Total					.913	.219
Total Chromium	12.5	Crude Atmos Dist	.011	.004	.1375	.05
	12.5	Crude Desalting	.011	.004	.1375	.05
	4.0	Cracking-				
		Moving Bed	.119	.041	.4760	.164
Total					.751	.264
Hex. Chromium	12.5	Crude Atmos Dist	.0007	.0003	.00875	.00375
	12.5	Crude Desalting	.0007	.0003	.00875	.00375
	4.0	Cracking-				
		Moving Bed	.0076	.0034	.03040	.01360
Total					.0479	.0211

\* See EPA, NRDC, API, Petroleum refining effluent guidelines settlement agreement dated April 17, 1984.

TABLE II

Process Configuration Calculations

Process	Capacity (1,000 bbl/day)	Capacity: Throughput	Weighting Factor	Processing Configuration
<hr/>				
Crude:				
Atmos.	12.5	1.0		
Desalting	12.5	1.0		
Total	-	2.0	X1	2.0
Cracking:				
Moving Bed	4.0	.32		
Total		.32	X6	1.92
Refinery Process Configuration				3.92

TABLE I

## Cracking Subcategory

## Calculation of Effluent Limits

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BOD5	12.5	.91	.74	9.9	5.5	83.3	46.3
TSS	12.5	.91	.74	6.9	4.4	58.1	37.0
COD	12.5	.91	.74	74	38.4	623	323
Oil and Grease	12.5	.91	.74	3.0	1.6	25.3	13.5
Ammonia (as N)	12.5	.91	.74	6.6	3.0	55.6	25.3
Sulfide	12.5	.91	.74	.065	.029	.55	.24
pH (units)	N/A	N/A	N/A	N/A	N/A	6.0-9.0	6.0-9.0

Parameter	1000 bbl/day Production	Process Factor	Daily Max	Daily Avg	Daily Max	Daily Avg
			lbs/1000 bbl	lbs/1000 bbl	lbs/day	lbs/day
Phenolic Compounds (4AAP)	12.5	Crude Atmos Dist	.013	.003	.1625	.0375
	12.5	Crude Desalting	.013	.003	.1625	.0375
	4.0	Cracking- Moving Bed	.147	.036	.5880	.219
Total					.913	.219
Total Chromium	12.5	Crude Atmos Dist	.011	.004	.1375	.05
	12.5	Crude Desalting	.011	.004	.1375	.05
	4.0	Cracking- Moving Bed	.119	.041	.4760	.164
Total					.751	.264
Hex. Chromium	12.5	Crude Atmos Dist	.0007	.0003	.00875	.00375
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	4.0	Cracking- Moving Bed	.0076	.0034	.03040	.01360
Total					.0479	.0211

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Moving Bed	4.0	.32		
Total		.32	X6	1.92
Refinery Process Configuration				3.92

Permit No.: Wy-0001163

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et. seq.,) (hereinafter referred to as "the Act"), and the Wyoming Environmental Quality Act (W.S. 35-11-101 through 1104, specifically 301(a)(i); Laws 1973, ch. 250, Section 1),

the Wyoming Refining Company

is authorized to discharge from a facility located at

Newcastle, Wyoming

to receiving waters named

Windmill Draw

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II and III hereof.

This permit shall become effective on date of issuance.

This permit and the authorization to discharge shall expire at midnight, March 31, 1990.

\_\_\_\_\_  
Administrator - Water Quality Division

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director - Department of Environmental Quality

\_\_\_\_\_  
Date

PART IA. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning immediately and lasting through March 31, 1990, the permittee is authorized to discharge from outfall(s) serial number(s) 001.

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			
	<u>lbs/day Daily Avg</u>	<u>lbs/day Daily Max</u>	<u>mg/l Daily Avg</u>	<u>mg/l Daily Max</u>
BOD5	46.3	83	N/A	N/A
COD	323	623	N/A	N/A
Phenolic Compounds (4AAP)	.219	.913	N/A	N/A
Ammonia Nitrogen (as N)	25.3	55.6	N/A	N/A
Sulfide	.24	.55	N/A	N/A
Oil & Grease	13.5	25.3	N/A	10
Total Suspended Solids	37	58.1	N/A	N/A
Total Chromium	.264	.751	N/A	N/A
Hexavalent Chromium	.0211	.0479	N/A	N/A

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units in any single grab sample.

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

Monitoring Requirements

<u>Parameter</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow - MGD	Quarterly	Instantaneous
BOD	Quarterly	Grab
COD	Quarterly	Grab
Phenols	Quarterly	Grab
Ammonia Nitrogen (as N)	Quarterly	Grab
Sulfide	Quarterly	Grab
Oil & Grease	Quarterly	Grab
Total Suspended Solids	Quarterly	Grab
Total Dissolved Solids	Quarterly	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the outfall from the final treatment unit and prior to admixture with diluent water or the receiving stream.

B. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water, or substance. Monitoring points shall not be changed without notification to and approval by, the permit issuing authority.

2. Reporting

Monitoring results obtained during the previous 3 month(s) shall be summarized and reported on a Discharge Monitoring Report Form, postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on July 28, 1985. Duplicate signed copies of these and all other reports required herein, shall be submitted to the Regional Administrator and the State at the following addresses:

U.S. Environmental Protection  
Agency  
1860 Lincoln Street, Suite 900  
Denver, Colorado 80295  
Attention: Enforcement-Permits  
Telephone: (303) 837-4901

Wyoming Department of Environmental  
Quality/Water Quality Division  
Herschler Building  
122 West 25th Street  
Cheyenne, Wyoming 82002  
Telephone: (307) 777-7781

If no discharge occurs during the reporting period, "no discharge" shall be reported. If discharge is intermittent during the reporting period, sampling shall be done while the facility is discharging.

3. Definitions

- a. The "daily average" discharge means the total discharge by weight determined by the arithmetic mean (geometric mean in the case of the fecal coliform parameter) of a minimum of three (3) samples taken on three (3) separate days during a calendar month.
- b. The "daily maximum" discharge means the total discharge by weight as determined by the analysis of a single properly preserved grab sample.
- c. The "daily average concentration" means the average concentration determined by the arithmetic mean (geometric mean in the case of the fecal coliform parameter) of a minimum of three (3) samples taken on three separate days during a calendar month.
- d. The "daily maximum concentration" shall be determined by an analysis of a single properly preserved grab sample.
- e. The "instantaneous maximum" shall be determined by the analysis of a single properly preserved grab sample.

- f. "Net" value, if noted under Effluent Characteristics, is calculated on the basis of the net increase of the individual parameter over the quantity of that same parameter present in the intake water measured prior to any contamination or use in the process of this facility. Any contaminants contained in any intake water obtained from underground wells shall not be adjusted for as described above and, therefore, shall be considered as process input to the final effluent. Limitations in which "net" is not noted are calculated on the basis of gross measurements of each parameter in the discharge, irrespective of the quantity of those parameters in the intake waters.
- g. A "composite" sample, for monitoring requirements, is defined as a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow.

4. Test Procedures

Test procedures for the analysis of pollutants, collection of samples, sample containers, sample preservation, and holding times, shall conform to regulations published pursuant to Section 304(h) of the Federal Water Pollution Control Act.

5. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The exact place, date and time of sampling;
- b. The dates the analyses were performed;
- c. The person(s) who performed the analyses;
- d. The analytical techniques or methods used; and
- e. The results of all required analyses.

6. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated.

7. Records Retention

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation shall be retained for a minimum of three (3) years, or longer if requested by the Regional Administrator or the State water pollution control agency.

8. Location of Discharge Points

001 - The "S1" gaging station located in Windmill Draw.

PART IIA. MANAGEMENT REQUIREMENTS1. Change in Discharge

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit. Any anticipated facility expansions, production increases or process modifications which will result in new, different or increased discharges of pollutants must be reported by submission of a new NPDES application or, if such changes will not violate the effluent limitations specified in this permit, by notice to the permit issuing authority of such changes. Following such notice, the permit may be modified to specify and limit any pollutants not previously limited.

2. Noncompliance Notification

If, for any reason, the permittee does not comply with or will be unable to comply with any maximum effluent limitation specified in this permit, the permittee shall provide the Regional Administrator and the State with the following information, in writing, within five (5) days of becoming aware of such condition:

- a. A description of the discharge and cause of noncompliance; and
- b. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the noncomplying discharge.

3. Facilities Operation

The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit.

4. Adverse Impact

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

5. Bypassing

Any diversion from or bypass of facilities necessary to maintain compliance with the terms and conditions of this permit is prohibited, except (i) where unavoidable to prevent loss of life or severe property damage, or (ii) where excessive storm drainage or runoff would damage any facilities necessary for compliance with the effluent limitations and prohibitions of



this permit. The permittee shall promptly notify the Regional Administrator and the State in writing of each such diversion or bypass.

If a partial or complete bypass is considered necessary, a request for such bypass shall be submitted to the State of Wyoming and to the Environmental Protection Agency at least sixty (60) days prior to the proposed bypass. If the proposed bypass is judged acceptable by the State of Wyoming and by the Environmental Protection Agency, the bypass will be allowed subject to limitations imposed by the State of Wyoming and the Environmental Protection Agency.

If, after review and consideration, the proposed bypass is determined to be unacceptable by the State of Wyoming and the Environmental Protection Agency, or if limitations imposed on an approved bypass are violated, such bypass shall be considered a violation of this permit; and the fact that application was made or that a partial bypass was approved shall not be a defense to any action brought thereunder.

6. Removed Substances

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

7. Power Failures

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

- a. In accordance with the Schedule of Compliance contained in Part I, provide an alternative power source sufficient to operate the wastewater control facilities;

or, if such alternative power source is not in existence and no date for its implementation appears in Part I,

- b. Take such precautions as are necessary to maintain and operate the facility under his control in a manner that will minimize upsets and insure stable operation until power is restored.

B. RESPONSIBILITIES

1. Right of Entry

The permittee shall allow the head of the State water pollution control agency, the Regional Administrator and/or their authorized representatives, upon the presentation of credentials:

- a. To enter upon the permittee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this permit; and
- b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect any

monitoring equipment or monitoring method required in this permit; and to sample any discharge of pollutants.

2. Transfer of Ownership or Control

In the event of any change in control or ownership of facilities from which the authorized discharge(s) emanate, the permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Regional Administrator and the State water pollution control agency.

3. Availability of Reports

Except for data determined to be confidential under Section 308 of the Federal Act, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the Federal Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Act.

4. Permit Modification

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

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

5. Toxic Pollutants

Notwithstanding Part II, B-4 above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Federal Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

6. Civil and Criminal Liability

Except as provided in permit conditions on "Bypassing" (Part II, A-5) and "Power Failures" (Part II, A-7), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability

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

8. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties established pursuant to any applicable State law or regulation.

9. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

10. Severability

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

PART III

A. OTHER REQUIREMENTS

1. Flow Measurement

At the request of the Director of the Wyoming Department of Environmental Quality, the permittee must be able to show proof of the accuracy of any flow measuring device used in obtaining data submitted in the monitoring report. The flow measuring device must indicate values within ten (10) percent of the actual flow.

2. 208(b) Plans

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