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Resources

June 4, 2009

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WATER QUALITY CONTROL DIVISION

Mr. Gary Beers  
Colorado Department of Public Health and Environment  
Water Quality Division-P-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

RE: Comments in Response to Colorado Discharge Permit System General Permit for Discharges  
Associated with Produced Water Treatment Facilities (COG-840000)

Dear Mr. Beers,

212 Resources, a produced and flowback water processing service company, respectively submits the following comments in response to the Colorado Discharge Permit System (CDPS) statewide General Permit COG-840000 posted in the Colorado Department of Public Health and Environment (CDPHE) April 2009 public notice. 212 Resources makes distilled and/or amended dischargeable water from O&G related waters and has superior operational results and permits from BLM and WOGCC on over a million barrels processed to date. We have one signed contract and several additional commitments for services in the Colorado Piceance area. From this experience, the following comments are respectively submitted.

1. Limitations Based on Existing Quality of Receiving Water (Antidegradation Review)

The Commentary in III. d. sets antidegradation levels at 15% of applicable parameters. This appears to be an arbitrary selection of excessively stringent levels that do not relate to other agency limits, representative Preliminary Effluent Limits (PEL – recognizing those are site specific) nor local aquifer conditions. If produced water is treated sufficiently to meet human health (drinking water standards) and/or existing, typical water quality in area aquifers, we suggest that should be sufficient environmental protection.

Related to this is the premise cited by the Agency to use “lowest limit found anywhere”. This approach does not necessarily relate to human health protection but rather a standard set by the “ability to measure”. As we mention elsewhere, EPA certified labs which we have used, indicated in writing that several constituent standards are not measurable or are of such cutting edge analytical requirements as to be suspect or rarely available. Ceding standards to the simple “lowest measurable limit” concept rather than reasonable human health standards will not allow the reasonable and economically viable development and application of field-based processing

2. Permit Processing

Although not directly related to the General Permit per se, our experience suggests the need for greater procedural clarification and assurances of review and decision timelines and agency processes. We suggest the agency create an “ombudsman” system of single-point support (across departments) to assist with timely review, coordination and management of paperwork and flow as well as notice of information needs. We have noted experience to date

where permits have been delayed for months due to process “holds” for information that we were not made aware of nor informed about following our questions. Timely public notice deadlines have been missed because of delayed internal agency peer review when all standards in the application were met. Each delay cost over a month delay in operations.

3. Monitoring Frequency

Understanding that CDPHE must apply a monitoring frequency to demonstrate the efficacy of the process, monthly monitoring or monitoring of operational parameters is sufficient to confirm treated effluent water maintains compliance with Colorado’s water quality limits. 212 Resources technology (and we imagine others do as well) operates at certain temperatures, flowrates and pressures and monitors those and other operational issues through its computer driven system. We can demonstrate certain effluent standards based on operational performance and use those as a quality assurance to reduce the need for frequent, costly sampling and analytical work. We suggest consideration of an approach that ties equipment operating performance to effluent quality over time. Another possibility is doing more frequent sampling for a short period once start-up is achieved and then requiring fewer samples once “proven”.

We are aware of a number of issues addressed by oil and gas companies and consultants on issues of water hardness (the standard in the proposed permit does not sustain life), WET test compliance (need for amendments other than using contaminated frac fluids as an amendment) and measurability of certain constituents (lab inability).

212 Resources requests the CDPHE review the above mentioned comments and modify the general permit requirements or language as appropriate. We appreciate your consideration of these comments. Please contact me with any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "R. Waits", with a stylized, cursive script.

Robert B. Waits  
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