



Montana Department of
ENVIRONMENTAL QUALITY

Brian Schweitzer, Governor

P. O. Box 200901

Helena, MT 59620-0901

(406) 444-2544

Website: www.deq.mt.gov

PUBLIC NOTICE NO. MT-10-20

June 25, 2010

Revised – extended comment period

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to state the Department's intention to issue a wastewater discharge permit to the facility listed in this notice and hold a public hearing on the issuance of this permit. This permit is issued by the Department under the authority of 75-5-402, Montana Code Annotated (MCA); the Administrative Rules of Montana (ARM) 17.30.1301 *et seq.*, Montana Pollutant Discharge Elimination System (MPDES); and Sections 402 and 303 of the Federal Clean Water Act. The Water Protection Bureau has prepared a draft permit for the facility listed below. Copies of the draft permit, fact sheet, and environmental assessment are available upon request from the Water Protection Bureau or on the Department's website www.deq.mt.gov.

APPLICANT INFORMATION

APPLICANT: Fidelity Exploration and Production Company
1700 Lincoln Street, Suite 4600
Denver, CO 82801

FACILITY NAME: Fidelity Exploration and Production Company
Tongue River Direct Discharge Facility

FACILITY LOCATION: T9S, R40E, Section 34, Big Horn County, MT
Decker, MT 59025

RECEIVING WATER: Tongue River

PERMIT NUMBER: MT0030457

The permittee is currently producing CBNG from its CX Field project area, in Big Horn County, MT, and discharge untreated CBNG produced water to Tongue River. The effluent is currently directly discharged into the Tongue River through fifteen outfalls. Effluent limits for its outfalls were developed based on applicable water quality standards and non-degradation criteria to protect the Tongue River upon its original issuance in 2001. The existing permit stipulates seasonal discharge flows based on the USGS seasonal 7Q10 flow analysis. On May 18, 2010, the Supreme Court of the State of Montana issued a court order (Court Order) on Northern Cheyenne Tribe, et al. vs. Montana Environmental Quality (the Department) and Fidelity Exploration and Production Company (Fidelity). The Court Order (numbered DA 09-0131) declares "Fidelity permits void" and remands the Department "to re-evaluate Fidelity's permit applications under the appropriate pre-discharge

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treatment standards. Following the Court Order, the Department re-evaluated the permit and imposed Technology Based Effluent Limits (TBEL, also called "pre-discharge treatment standards" in the Court Order) to the permit.

On September 21, 2000, a U.S. District Judge issued an order stating that until all necessary total maximum daily loads under Section 303(d) of the Clean Water Act are established for a particular water quality limited segment, the State is not to issue any new permits or increase permitted discharges under the MPDES program. The order was issued in the lawsuit Friends of the Wild Swan v. U.S. EPA, et al., CA 97-35-M-DWM, District of Montana, Missoula Division. The Department finds that the reissuance of this permit does not conflict with the order, because this permit reissuance only opens to TBEL which place some new limitations to the existing discharge. There is no new and increased flow and source of pollutants added to the discharge.

PUBLIC COMMENT

Public comments are invited ANYTIME PRIOR TO CLOSE OF BUSINESS August 17, 2010. Comments may be directed to the DEQ Permitting & Compliance Division, Water Protection Bureau, PO Box 200901, Helena, MT 59620. All comments received or postmarked PRIOR TO CLOSE OF BUSINESS August 17, 2010 will be considered in the formulation of final determinations to be imposed on the permits. If you wish to comment electronically, you may e-mail Bree Duffy or Barb Sharpe at WPBPublicNotices@mt.gov.

A public hearing will be held on the draft wastewater discharge permit, the statement of basis, environmental assessment, and the Department's tentative determination on **August 2, 2010, at 6:00 pm in the Council Room of City Hall, Hardin, Big Horn County. The address is 406 N Cheyenne Avenue, Hardin, MT.**

The Department will respond to all substantive comments and issue a final decision within sixty days of this notice or as soon as possible thereafter. Additional information may be obtained upon request by calling (406) 444-3080 or by writing to the aforementioned address. The administrative record, including the permit application and other pertinent information, is maintained at the Water Protection Bureau office in Helena and is available for review during business hours.

The State of Montana makes reasonable accommodations for any known disability that may interfere with a person's ability to participate in state government. Persons needing an accommodation must notify Bree Duffy or Barb Sharpe no later than **July 22, 2010**, to allow adequate time to make needed arrangements. You can call Bree or Barb at 444-3080 or write to them at the address noted to make your request known.

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DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER PROTECTION BUREAU
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HELENA MT 59620-0901

TODD EVERTS
LEGISLATIVE ENVIRONMENTAL POLICY OFFICE
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