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Environmental Management System Permit

[Insert Permit Number]

Issued to: Magnum Feedyard, LLC
11665 Morgan County Road 1
Wiggins, Colorado 80654

Permit Number: **[Insert Permit Number]**

Permit Type: Environmental Management System (EMS) Permit

Effective Date: **XX/XX/2005**

Expiration Date: June 30, 2008

Magnum Feedyard, LLC ("facility") is a beef cattle feedyard operation with associated farm and rangeland occupying a total of 2,100 acres, approximately 5.5 miles southwest of Wiggins, Colorado in Morgan County (SIC Code No. 0211). The facility is currently operated as a beef cattle feeding facility with a confinement capacity of 22,000 head of feeder cattle. The facility receives, stores, and blends feed on-site for the confined cattle. The property consists of grain storage bins, a shop, an office, three residences, a feedmill, two animal processing barns, confinement pens, center pivot sprinkler systems, water wells, and improved roadways.

The facility lies within the watershed of the South Platte River, which is located approximately 13 miles north of the facility. Surface runoff from the property (not within the confined animal areas) and surrounding areas is directed northerly to the South Platte River via Kiowa Creek. Soils are primarily sands and sandy-loams. Surface runoff from the confinement pens travels through constructed waterways throughout the facility towards two runoff ponds. Large culverts exist in two locations in the center of the confinement area to convey runoff north to the north runoff pond and drainage ditches along the east side of the facility convey runoff to the east runoff pond. One small processing barn exists south of the office; a concrete settling basin exists at the northeast corner of this structure for temporary storage of clean up water from the barn. Once the basin is full, wastewater is pumped from the basin to the east runoff pond. Excess wastewater from the east pond drains to two evaporation ponds.

This permit covers the entire facility and is granted subject to all rules and regulations of the Colorado Department of Public Health and Environment's (the Department) Environmental Management System Permit Program Regulation (EMS Permit Program Regulation) [5 CCR 1004-1], the Water Quality Control Commission's Colorado Discharge Permit System (CDPS) [5 CCR 1002-61] and Animal Feeding Operations Control Regulation [5 CCR 1002-81], the Hazardous Waste Commission's 6 CCR 1007-3, Parts 273 and 279, and to those general terms and conditions included in this document and the following specific terms and conditions.

This permit is not transferable and the permittee shall apply for permit re-issuance at least ninety days prior to the expiration of this permit. Magnum Feedyard, LLC need not submit the entire permit application for re-issuance of this permit, but is only required to provide information where the facility is requesting modifications to the permit.

I. Environmental Policy

The facility shall develop and document an environmental policy statement; which can be found in the facility's Environmental Management System (EMS) Manual, section II., subsection 1.0. In addition, the facility shall commit to measurable environmental benefits and continual environmental improvement.

II. Identifying Environmental Aspects

The facility has established a procedure, and has identified and prioritized the environmental aspects of its activities. The prioritized environmental aspects can be found in the facility's EMS Records document in Table 1.

- A. The facility shall establish and maintain procedures to identify the environmental aspects of its activities, products or services that it can control and over which it can be expected to have an influence, in order to determine those that have, or can have, significant impacts on the environment. The facility shall ensure that aspects related to these significant impacts are considered in setting its environmental objectives. See the facility's EMS Procedures Manual, CP#1, for aspects and impacts procedure.
- B. Magnum Feedyard, LLC shall conduct annual reviews of the facility's aspects and impacts assessment in order to determine the sufficiency of continual improvement goals.
- C. Minor modifications can occur to the facility without public comment or notice so long as the total pollutant discharge for the facility does not exceed the limits established in this permit or any applicable requirement and would not otherwise be considered a major modification. If a facility modification occurs without a permit modification, the facility shall notify the Department and any other federal, state or local agency as applicable at least 10 days before commencing the modification. The facility shall conduct a review to determine whether the modification requires the facility to comply with any additional regulatory requirements. If an additional regulatory requirement is applicable, the facility shall demonstrate to the Department and all other applicable agencies compliance with this requirement within 30 days of completion of the modification. If control equipment is required to maintain discharges below the limits established in this permit, the facility shall provide the Department and all other applicable agencies with detailed information about the necessary control equipment within 30 days of commencing the construction.
- D. Major modifications require the public comment period in Section 6 of the EMS Permit Program Regulation [5 CCR 1004-1] to occur prior to the Department issuing the modification. Major modifications must be prepared on forms supplied by the Department.

III. Legal and Other Requirements

- A. Magnum Feedyard, LLC's policy for legal requirements can be found in the facility's EMS Procedures Manual, CP#3.
- B. The facility shall comply with the federal, state, and local environmental regulatory requirements, unless modified by this permit, and comply with this permit. The objectives and targets included in Parts IV, V, VI.A and B, and XVI of this permit are enforceable as permit terms and conditions.
- C. This EMS Permit incorporates the applicable requirements contained in the CDPS concentrated animal feeding operation (CAFO) permit, and does not affect those applicable requirements, except as modified during review of the application or as modified subsequent to the permit issuance using the modification procedures found in sections 5.2 and 5.3 of the EMS Permit Program Regulation [5 CCR 1004-1].

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All discharges authorized herein shall be consistent with the terms and conditions of this permit. An anticipated change in the discharge and/or facility expansion, production change, or process modification which will result in any new, different, or increased discharge of pollutants must be reported to the Department. Following such notice, the permit may be modified to specify or limit any new pollutants.

Any revisions made using the provisions of sections 5.2 and 5.3 of the EMS Permit Program Regulation shall become new applicable requirements for purposes of this EMS permit and shall survive re-issuance. This permit incorporates the applicable requirements from the CDPS CAFO permit COG-931000 and incorporated directly into this EMS Permit, through the EMS permit process.

- D. Severability. The provisions of this permit are severable, and if any provision of this permit, or application of any provision 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.
- E. Duty to Comply. The facility must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the EMS Permit Program Regulation and is grounds for possible enforcement action.
- F. Permit Revision, Renewal, Suspension, and Revocation of Permit. This permit shall be in effect until June 30, 2008. Terms and conditions of this permit may be modified by the Department to meet local, state, or federal requirements or if there is other good cause.

In accordance with Section 5.4 of the EMS Permit Program Regulation [5 CCR 1004-1], this permit may be suspended or revoked for the following reasons:

1. Violation of any terms or conditions of the permit;
2. Obtaining a permit by misrepresentation or failing to disclose any fact which is material to the granting or denial of a permit or to the establishment of terms or conditions of the permit;
3. Materially false or inaccurate statements or information in the permit application or the permit;
4. A determination that the permitted activity endangers human health or the classified or existing uses of state waters and can only be regulated to acceptable levels by permit modifications or termination;
5. The facility is in serious environmental civil noncompliance with the EMS Permit or other applicable laws;
6. The facility is not able, or has shown a lack of willingness, to comply with continual environmental improvement goals and targets in the EMS Permit;
7. Upon transfer of ownership or operation of the facility, the new owner or operator is not eligible for an EMS Permit; or

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8. The facility fails to comply with the requirements of Section 2 of the EMS Permit Program Regulation [5 CCR 1004-1].

G. Non-Transferability. This permit may not be sold, traded, assigned, sublet, or otherwise transferred. Any new discharger must obtain a wastewater discharge permit regardless of whether a permit previously existed for the same premises. Any new discharger must comply with Section 2.6 of the EMS Permit Program Regulation [5 CCR 1004-1] to transfer ownership.

IV. Objectives and Targets

The facility shall establish and maintain documented environmental objectives and targets and consider legal and other requirements, significant environmental aspects, technological options, and financial, operational, and business requirements, and views of interested parties when establishing and reviewing objectives. Environmental objectives and targets shall include specific measurable metrics and/or goals to be used to monitor progress toward achieving and obtaining goals. The following objectives and targets are enforceable conditions.

A. Production Area Requirements

1. Production Area Effluent Limitations

- a. The facility shall not discharge process wastewater or manure to surface waters from the production area except as a result of the production area receiving a Catastrophic Event, or as provided below.
 - i. Whenever precipitation causes an overflow of manure or process wastewater, pollutants in the overflow may be discharged into surface waters only if the following conditions have been met. There shall be no effluent limitations on discharges resulting from such overflows.
 - (A) The production area is properly designed, constructed, operated and maintained to contain all manure and process wastewater and the runoff and direct precipitation from the 25-year, 24-hour storm or chronic storm, whichever is greater, for the location of the facility.
 - (B) The production area is operated in accordance with the best management practices specified in Part IV.A.2, and the records included in Part V.A, and Parts VI.A.1 - 4. and VI.B. of this permit <check sections>.
 - (C) The owner collects, analyzes, and reports the results of process wastewater samples in a manner and at locations as described in Part V.C <check sections> of this permit.
 - (D) During a chronic storm, discharge is not authorized where there is an interval between days of precipitation that was sufficient to allow process wastewater in the impoundments to be transferred to another available impoundment or temporary storage tank, or land applied in accordance with the conditions of this permit.

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- b. The 25-year, 24-hour storm for the location of the facility is 3.4 inches over the course of 24 hours, as indicated by the National Weather Service map showing the 25-Year, 24-Hour Storm Values for Colorado (available at the following internet address: <http://www.wrcc.dri.edu/pcprnfreq/co25y24.gif>). As an alternative, the 25-year, 24-hour storm value for the location of the facility may be determined based on a site-specific analysis which shall be submitted by the facility with the application for coverage under this permit. Such analysis may not be used for compliance determination purposes unless the Department has noted its approval of the analysis in the permit. The analysis shall be based on an appropriate period of record at the nearest location to the facility where such record exists.
- c. The chronic storm, or 10-year, 10-day storm event, value for the location of the facility shall be determined according to one of the following methods:
 - i. Calculation Method: The facility shall identify an official weather station that is located within 50 miles of the facility, and that has at least 50 years of precipitation data. The facility shall select a station with precipitation data that best represents the location of the facility. Absent such a station that is located within 50 miles, the facility shall identify such a station located within 75 miles of the facility.

For each year of precipitation data, the facility shall calculate running 10-day totals of precipitation amounts. That is, the facility shall calculate a precipitation total for January 1 through January 10, a separate total for January 2 through January 11, a separate total for January 3 through January 12, and so on.

The facility shall identify the 50 greatest values of precipitation that were recorded during 10-day periods over the at least 50 years of data. Some years may have more than one of the top 50 values, and some years may have none. If two or more of the values are from 10-day periods that overlap, the facility shall retain the greatest value and ignore the others. For example, if one of the 50 greatest values is 3.0 inches which is for the 10-day period of February 3 through 12, and another of the 50 greatest values is 2.8 inches which is for the period of February 7 through 16 of the same year, the facility shall retain the 3.0-inch value and ignore the 2.8-inch value and shall skip to the February 13 through 22 period of that year to begin looking for the remaining 50 greatest values.

After identifying the 50 greatest values of precipitation received over 10 days, the facility shall rank the values from the largest to the smallest amount. The facility shall select the value that represents a 1 in 10 chance of receiving that amount of precipitation over a 10-day period in any given year. For example, assuming 50 years of data, the fifth largest value represents a 5 in 50, or 1 in 10 chance of receiving this precipitation amount over 10 days.

- ii. NRCS Values: The facility may use the 10-year, 10-day frequency rainfall amount calculated by the United States Department of Agriculture – Natural Resources Conservation Service (NRCS) for a city that is located within 75 miles of the facility. These data sets are available from the NRCS area engineers. The NRCS calculated 10-year, 10-day frequency value for Fort Morgan, Colorado is 3.86 inches.

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2. Production Area Monitoring Requirements

a. The facility shall perform visual inspections of the production area as follows:

Structure/Device	Frequency
Impoundments and tanks, including the process wastewater level in open surface impoundments, as indicated by the depth marker required under Part IV.A.2.a <check section>, of this permit	Weekly
Animal waste storage structures	
Stormwater run-on diversion devices	
Runoff diversion structures	
Devices channeling process wastewater to impoundments or tanks	
Water lines, including drinking water or cooling water lines	Daily

3. Production Area Recordkeeping Requirements

a. The facility shall maintain for five years from the date they are created, and make available to the Department or its designee, upon request, the following records:

- i. Records documenting the daily and weekly visual inspections of the production area required under Part V.A <check section> of this permit.
- ii. Weekly records of the depth of the manure and process wastewater in the liquid impoundments and storage tanks as indicated by the depth marker required under Part IV.A.2.a <check section> of this permit.
- iii. Records documenting any actions taken to correct any deficiencies found as a result of the daily and weekly inspections required under Part V.A <check section> of this permit. Records of deficiencies not corrected within 30 days shall be accompanied by an explanation of the factors preventing immediate correction.
- iv. Records of mortalities management and practices used by the facility to document that mortalities are not disposed of in any liquid manure or process wastewater system, and that mortalities are handled in such a way as to prevent discharge of pollutants to surface waters (pursuant to Part IV.A.2.c <check section> of this permit).
- v. Records documenting the current design of any manure storage structures, including volume of solids accumulation, design treatment volume, total design volume, and approximate number of days of storage capacity; and
- vi. Records of date, time, and estimated volume of any overflow.

4. Production Area Additional Requirements

a. The facility shall install depth markers in all open surface impoundments to indicate the design volume and to clearly indicate the minimum capacity necessary to contain a 25-year, 24-hour storm or chronic storm, whichever is greater, and to clearly indicate the two-foot freeboard elevation (or alternative freeboard requirement, if the Department has

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approved an alternative requested by the facility with the application for this permit). At a minimum, depth markers shall be clearly marked in one (1) foot increments.

- b. The facility shall correct any deficiencies found as a result of daily and weekly inspections conducted in accordance with the requirements of Part V.A <check section> of this permit as soon as possible, but no later than 30 days of such a deficiency having been identified, unless factors preventing correction within 30 days have been documented in accordance with the requirements of Part VI.A.1.c <check section> of this permit.
- c. The facility shall not dispose of mortalities in any liquid manure or process wastewater system that is not specifically designed to treat animal mortalities, and mortalities must be handled in such a way as to prevent discharge of pollutants to surface waters.

B. Nutrient Management Plan Requirements

1. The facility shall develop and implement a nutrient management plan (NMP),. The NMP shall be submitted to the Department with the permit application for review of its compliance with Section 61.17(8)(c) of the CDPS Regulation [5 CCR 1002-61]. The NMP shall include best management practices and procedures necessary to assure compliance with the effluent limitations and standards and all applicable conditions of this permit, including conducting nutrient transport risk assessments, developing land application rates according to the technical standards established by the Department, and observing the required land application setbacks. The NMP must incorporate, and Magnum Feedyard, LLC shall comply with, the following requirements:
 - a. Ensure adequate storage of manure and process wastewater, including procedures to ensure proper operation and maintenance of the impoundments, conveyance structures, pumps, and other storage and transport facilities or equipment.
 - b. Ensure proper management of animal mortalities to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage system that is not specifically designed to treat animal mortalities;
 - c. Ensure that clean water resulting from the designed storm event is diverted from the production and confinement areas;
 - d. Prevent the direct contact of confined animals with surface waters;
 - e. Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, storm water, or process wastewater storage or treatment system unless specifically designed to treat such chemicals and other contaminants;
 - f. Identify site-specific conservation practices that will be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to surface waters.
 - g. Establish protocols to land apply manure or process wastewater in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure or process wastewater based on the technical standards for nutrient management established by the Department.

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- h. There shall be no discharge of manure or process wastewater to surface water from the facility as a result of the application of manure or process wastewater to land application sites, except where it is an agricultural storm water discharge. Where manure or process wastewater has been applied in accordance with a site-specific NMP that properly addresses Parts IV.A.3.f through h <check section> of this permit, a precipitation related discharge of manure or process wastewater from land application sites is an agricultural storm water discharge.
- i. Identify specific records that will be maintained to document the implementation and management of the minimum NMP elements described in Parts IV.A.3.a through h <check section> of this permit.
- j. The NMP shall be signed by the operator or other signatory authority in accordance with Part VI.A.8 <check section> of this permit.
- k. The facility shall implement its approved NMP as of the effective date listed on the first page of this permit.
- l. The facility shall keep a current copy of the NMP on site in accordance with Part VI.A.2 <check section> of this permit and shall provide the NMP to the Department or local health department upon request.
- m. The facility must amend the NMP as necessary whenever the facility makes a substantive change in how it manages its operation, including the location, method, timing, or frequency of land application so that the NMP reflects the current operational characteristics and practices of the CAFO.

C. Facility Operations Requirements

- 1. The facility shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the facility to achieve compliance with the conditions of this permit. In addition, operations shall be conducted in a manner that does not result in a discharge to surface water not specifically authorized by this permit.
- 2. The facility must develop and implement the following practices. The requirements specified in Parts IV.A.1 through 3 <check section> also must be developed and implemented.
- 3. Ensure Adequate Storage Capacity
 - i. Develop and implement, as of the date of coverage under this permit, specific practices and associated structures to ensure adequate storage capacity for process wastewater to achieve permit limitations, including the following.
 - ii. Provide adequate storage capacity to ensure compliance with the effluent limitations specified in Part IV.A.1 <check section> of this permit, including one of the following, as applicable:

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- (A) Impoundments and temporary storage tanks for production areas shall be designed and constructed so that they are capable of storing, at a minimum, the volume of all liquid manure and process wastewater, including the runoff resulting from a 25-Year, 24-Hour Storm or Chronic Storm, whichever is greater.
- (B) Evaporation impoundment systems for production areas shall be designed and constructed to withstand a consecutive 10-year period of maximum recorded rainfall, as determined by a water budget analysis process which includes manure and process wastewater loading during that period and provides sufficient storage capacity to retain all rainfall and process wastewater from the applicable design storm event without overflow. For purposes of determining the consecutive 10-year period of maximum recorded rainfall, the entire period of record shall be utilized. Such impoundments shall also be capable of containing any planned volume of liquid manure and process wastewater, including the runoff resulting from a 25-year, 24-hour storm.
- iii. Except during the 25-year, 24-hour or chronic storm event, manure and process wastewater stored in impoundments and tanks shall be removed as necessary to maintain a minimum of two (2) feet of freeboard, except where an alternative freeboard elevation has been requested by the facility in the application for the permit and the alternative has been approved by the Department.
- iv. Whenever the storage capacity of impoundments and tanks is less than the volume required to store runoff from the designed storm event, the structures shall be dewatered to a level that restores the required capacity once soils on a land application site have the water holding capacity to receive process wastewater. (Note: Ground water protection requirements for removal of wastewater from impoundments can be found in Part IV.B.2 [<check section>](#) of this permit.)
- v. Impoundments and tanks shall be properly operated and maintained to have the manure and process wastewater storage capacity required in Part IV.A.4.a.i [<check section>](#) of this permit.
- vi. Accumulations of manure shall be removed from impoundments and temporary storage tanks as necessary to maintain the capacity of the structures to retain the storage volume from the designed storm event. (Note: Requirements for removal of manure from impoundments can be found in Part IV.B.2 [<check section>](#) of this permit.)
4. Storm water diversion. As of the date of permit coverage, structures used to divert clean water from running onto feedlots, holding pens, manure and process wastewater storage systems, manure stockpiles, composting areas, and the like shall be designed, constructed, and maintained such that they can carry the flow expected from a 25-year, 24-hour storm.
5. Spillways. As of the date of permit coverage, an impoundment shall have a spillway that is designed and maintained to prevent erosion of the structural integrity of the impoundment, except as follows:

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- i. An impoundment that holds a depth of process wastewater that is five (5) feet or less, retains process wastewater for 48 hours or less, and from which any overflow will be captured by a down gradient impoundment or tank, or
- ii. The facility has requested and received a variance from the Department that specifies that no spillway is required for an impoundment(s).

D. Land Application Requirements

1. Land Application Equipment Inspection. The facility shall periodically inspect for leaks equipment used for land application of manure or process wastewater as follows:

	Minimum Frequency/Timing
Baseline (minimum)	Annually, and within six months prior to the first application of manure or process wastewater
When process wastewater is being applied	Daily

2. Land Application Area Record Keeping Requirements. The facility shall maintain on-site a copy of its most current NMP and make it available to the Department or its designee, upon request. In addition, the facility must create, maintain on-site for five years from the date they are created, and make available to the Department or its designee, upon request, all applicable records identified in the NMP, pursuant to Part IV.A.3.i, <check section> of this permit. Such records shall include, but are not limited to:

- a. Expected crop yields;
- b. The date(s) manure or process wastewater is applied to each land application site;
- c. The amount of precipitation received at the time of land application and for 24 hours prior to and following application;
- d. Test methods used to sample and analyze manure, process wastewater, and soil;
- e. Results from manure, process wastewater, and soil sampling and analysis;
- f. Explanations of the basis for determining manure and process wastewater application rates, in accordance with the NMP required by Part IV.A.3 <check section> of this permit;
- g. Calculations showing the total nitrogen and phosphorus that will be applied to each land application site, including sources other than manure or process wastewater;
- h. The total amount of nitrogen and phosphorus actually applied to each land application site, including documentation of calculations for the total amount applied;
- i. The method used to apply the manure and process wastewater;
- j. Date(s) of manure application equipment inspection made in accordance with Part V.B.1 <check section> of this permit.

E. Manure Management Requirements

1. Transfer of Manure and Process Wastewater to Third Parties. Where the facility transfers manure or process wastewater to third parties, the facility must comply with the following conditions:
 - i. Provide the recipient of the manure or process wastewater with the most current nutrient analysis that was acquired in accordance with Part IV.A.3.g <check section> of this permit;
 - ii. Record the date and approximate amount of manure and process wastewater transferred to third parties;
 - iii. Record the name and address of the third parties; and
 - iv. Maintain the records required in Parts VI.A.1 and 2 <check section> of this permit for five (5) years.

2. Manure, Process Wastewater, and Soil Sampling
 - i. The facility shall sample and analyze manure, process wastewater, and soil shall be sampled and analyzed with the following frequency:

	Parameter(s)	Minimum Frequency
Manure and process wastewater	<ul style="list-style-type: none"> • total nitrogen • ammonia (as N) • nitrate (as N) • total phosphorus 	once annually
The top one foot of soil of land application sites	available phosphorus	once every five years, or as otherwise necessary to meet the transport risk assessment requirements of the facility's NMP
Soils of land application sites (sampled at depth zones necessary to meet the application rate calculation requirements of the facility's NMP)	nitrate (as N)	as often as necessary to meet the application rate calculation requirements of the facility's NMP

- ii. The results of the analyses shall be used in determining application rates for manure and process wastewater.

3. Standard Operating Procedure and Manure Removal Certifications. Records shall be maintained and notifications made as follows, in accordance with Part IV.B.2 <check section> of this permit.

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- a. Magnum Feedyard, LLC shall maintain on-site and submit to the Department upon request the approved SOP and the certifications that manure and sludge were removed impoundments in accordance with the SOP.
- b. Where the SOP is not followed the facility shall provide notice to the Department within 30 days of the date of manure removal.

F. Ground Water Requirements

1. Impoundment Liners

- a. The facility shall construct and maintain impoundments to comply with one of the following standards, as applicable:
 - i. The seepage rate from an impoundment shall not exceed 1×10^{-6} cm/sec; or
 - ii. Where approved by the Department for an impoundment with an earthen liner, the seepage rate from the impoundment shall not exceed 7.35×10^{-6} cm/sec. The operator of the impoundment shall submit to the Department a request that the impoundment be approved to meet this seepage standard. Such a request shall include, but not be limited to, information documenting that only open-lot wastewater will be diverted to the impoundment, that the impoundment is not designed as an evaporation impoundment, and that the ten (10) foot soil depth zone immediately beneath the impoundment has a cation exchange capacity of at least 15 meq/100 g of soil. Demonstration of compliance with the cation exchange capacity criteria requires the following:
 - (A) At least seven soil samples shall be acquired from below the entire surface area of the impoundment and analyzed for cation exchange capacity.
 - (B) The soil samples shall be reasonably equidistant from each other, with five locations being within ten feet of, and downslope of, the two-foot freeboard elevation of the impoundment, and two locations from the middle of the impoundment.
 - (C) The facility shall have available a map of the impoundment and soil sampling locations.
 - (D) Where soil samples were taken below existing impoundments, the facility shall have available documentation from a professional engineer registered in the State of Colorado of how the core locations were sealed to meet a 1×10^{-6} cm/sec maximum seepage rate.
- b. The facility shall have available documentation prepared by a professional engineer registered in Colorado certifying that the provisions of Part IV.B.1 **<check section>** have been met, and stating what constitutes each constructed liner (e.g., synthetic, clay). For the two clay-lined impoundments constructed prior to June 30, 2004, such documentation shall be available no later than April 13, 2006. For the rubber-lined impoundment constructed after June 30, 2004 such documentation shall be available at

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least 30 days prior to wastewater entering the impoundment. Copies of such documentation shall be made available to the Department or its designee, upon request.

- c. The facility shall visually inspect the exposed liner of an earthen impoundment weekly to identify physical changes or deficiencies that may affect the integrity of the liner. Such deficiencies and physical changes shall be corrected within thirty (30) days of having been identified.
 - i. The facility shall record the date of the inspection, deficiencies identified, corrective actions taken, and dates that corrective action was completed.
 - ii. Deficiencies not corrected within 30 days shall be accompanied by an explanation of the factors preventing completion of corrective actions within this time period.
 - iii. The records shall be maintained on-site for five years from the date of creation and shall be made available to the Department upon request.
2. Removal of Manure and Wastewater. Removal of manure or wastewater from an impoundment shall be accomplished in a manner that does not damage the integrity of the liner. The facility has submitted to the Department a Standard Operating Procedure (“SOP”) that demonstrates how manure, including sludge, will be removed such that the liner integrity of impoundments is not damaged and that indicates the expected frequency with which manure will be removed from impoundments. Magnum Feedyard, LLC’s SOP has been approved by the Department <check>.
 - a. The facility shall follow the approved SOP whenever manure, including sludge, is removed. Where the SOP was not followed, the Department may require that the facility make the liner available for inspection. Where the Department has just cause as a result of the inspection, the Department may require re-certification of the liner.
 - b. The facility shall certify, after each manure or sludge removal event, that the manure or sludge was removed in accordance with the approved SOP.
 - c. The certifications and approved SOP must be available on-site and be submitted to the Department upon request.
 - d. Where the SOP is not followed the facility shall provide notice to the Department within 30 days of the date of manure removal.
3. Depth Markers. Any depth marker in an impoundment shall be installed in a manner that maintains the integrity of the liner and maintains the required seepage rate standard. (Note: Water quality requirements for depth markers can be found in Part IV.A.2.a <check section> of this permit.)
4. Conveyance Structures. The facility shall maintain earthen conveyance structures to minimize ponding of wastewater. In addition, such structures shall be constructed and maintained as follows for the purpose of limiting seepage of wastewater in the structures:
 - a. Conveyance structures that carry open-lot wastewater:

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- i. Where constructed in soils that have 35-60 percent gravel, a conveyance structure shall be constructed by sufficiently compacting the existing soil material (less than 60 percent gravel) in place with at least two passes of rubber-tired construction equipment, four passes of track-type equipment, or equivalent, over the entire surface of the conveyance structure. Moisture content of the soil material during compaction shall be maintained to promote sufficient compaction of the in-place materials. The soil should be wet to the touch and leave a stain on the hand when squeezed.
 - ii. Where constructed in soils that have greater than 60 percent gravel, or in loamy sand or sandy soils with greater than 35 percent gravel, a conveyance structure shall be constructed by placing a compacted liner over the entire surface of the conveyance structure. A conveyance structure liner shall be constructed of soils having less than 60 percent gravel, shall be twelve (12) inches thick, and shall be compacted with at least two passes of rubber-tired construction equipment, four passes of track-type equipment, or equivalent, over the entire surface of the conveyance structure. Moisture content of the soil material during compaction shall be maintained to promote sufficient compaction of the soil liner material. The soil should be wet to the touch and leave a stain on the hand when squeezed. In addition, the constructed liner shall be maintained to retain these standards.
 - iii. Where constructed in soils having less than 35 percent gravel, a conveyance structure does not need to be lined or compacted.
 - b. Conveyance structures that carry process-generated wastewater intermittently (greater than 48 hours between conveyance events) – Earthen conveyance structures that carry process-generated wastewater intermittently shall be constructed and maintained in accordance with the standards specified in Section IV.B.4.a.ii **<check section>** above.
 - c. Conveyance structures that carry process-generated wastewater non-intermittently (48 hours or less between conveyance events) – Earthen and non-earthen (e.g., pipe or concrete) conveyance structures that carry process-generated wastewater non-intermittently shall be constructed and maintained to have a maximum seepage rate of 1×10^{-6} cm/sec.
 - d. Where, upon inspection, the Department has just cause to determine that the liner required for any conveyance structure is not in place, the Department may require that the facility submit to the Department a certification that the conveyance structure meets the requirements of Part IV.B.4.a.ii **<check section>** of this permit. The certification shall be made by a professional engineer registered in the State of Colorado.
5. Ground Water Monitoring. Where an impoundment is not in compliance with Part IV.B.1 **<check section>**, or where the Department determines that an impoundment liner is not being properly maintained, the Department may require the facility to conduct site-specific ground water quality monitoring of, but not limited to, total nitrogen, ammonia-nitrogen, nitrate-nitrogen, and fecal coliform. In making a determination of whether ground water monitoring is required, the Department shall consider all pertinent factors, including but not limited to: whether the impoundment poses a significant potential risk to beneficial uses of ground water, whether there is suspected contamination of ground water attributable to the facility, whether early detection of ground water contamination is essential to protect valuable drinking water sources, and whether there has been a significant failure on the part

of the facility to comply with Part IV.B.1, 2, 3, or 5 <check section>, or the setback requirements for impoundments as specified in section 81.5(6) of the Animal Feeding Operations regulation [5 CCR 1002-81].

6. Ground Water Record Keeping and Reporting Requirements. Records of Earthen Impoundment Liner Inspections. Magnum Feedyard, LLC shall keep records of weekly inspections of the exposed liner of all earthen impoundments in accordance with the requirements of Part IV.B.1.c <check section> of this permit. Records must include the date of the inspection, deficiencies identified, corrective actions taken, and the date(s) that corrective action was completed. Records of deficiencies not corrected within 30 days must include an explanation of the factors preventing completion of corrective actions within this time period.

G. Discharge Monitoring

1. In order to obtain an indication of the reasonable potential for discharges resulting from a 25-year, 24-hour storm or chronic storm to cause or contribute to an exceedance of water quality standards, the facility shall monitor the following process wastewater discharge parameters at the indicated frequencies:

<u>Process Wastewater Parameter</u>	<u>Frequency</u>	<u>Sample Type^a</u>
Flow, MGD	3/Discharge ^b	Calculated
BOD ₅ , mg/l ^c	1/Discharge	Grab
Total Suspended Solids (TSS), mg/l	1/Discharge	Grab
Fecal Coliform, colony number/100 ml	1/Discharge	Grab
Nitrate, as N, mg/l	1/Discharge	Grab
Total Ammonia, mg/l as N	1/Discharge	Grab

Monitoring samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): the discharge point(s) following the retention structure and prior to mixing with waters of the state.

If conditions are not safe for sampling, the facility shall provide documentation of why samples could not be collected and analyzed. For example, the facility may be unable to collect samples during dangerous weather conditions (such as local flooding, tornadoes, electrical storms). However, once dangerous conditions have passed, the facility shall collect a sample from the impoundment or tank from which the discharge occurred.

In addition to the above requirements, the facility shall monitor and record the date, time, and approximate volume of any overflow from wastewater or manure handling or storage structures in the production area.

2. Analytical and Sampling Methods. Discharges shall be sampled and analyzed with approved methods cited in the Regulations for Effluent Limitations (5 CCR 1002-62), the

^a A “grab” sample, for monitoring requirements, is defined as a single “dip and take” sample collected so as to be representative of the parameter being monitored.

^b Record flow as close as possible to the beginning, middle, and end of the discharge. The flow measurement shall be representative of the flow rate of the discharge.

^c BOD₅ = five-day biochemical oxygen demand

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Colorado Discharge Permit System Regulations (5 CCR 1002-61), Federal Regulations (40 CFR Part 136), and other applicable State or Federal Regulations.

3. BOD₅ and Fecal Coliform. Lab protocols call for BOD₅ and fecal coliform samples to arrive at a certified laboratory within 24 and 8 hours, respectively. The facility shall use due diligence in delivering grab samples to an appropriate laboratory within eight hours. Document when the grab samples were collected and efforts made to deliver the samples to an appropriate laboratory within eight hours. The facility shall not be considered to be out of compliance with this permit if due diligence is demonstrated to have been made to get grab samples to an appropriate lab within 8 hours.
4. Representative Sampling. Discharge parameter samples and measurements taken at monitoring points as required herein shall be representative of the volume and nature of the monitored process wastewater discharged from the permitted facility.
5. Process Wastewater Discharge Sampling Points. Process wastewater discharge sampling points shall be so designed or modified so that a sample of the discharge can be obtained at a point prior to discharge to surface water. The facility shall provide access to the Department and its designee to sample at these points.
6. Records and Reports of Discharges. The facility shall establish and maintain records of discharge monitoring as specified in Part VI.A.3 <check section> of this permit. The facility shall report discharge monitoring results as specified in Part VI.A.6 <check section> of this permit.
7. Additional Monitoring By Facility. If the facility, using approved analytical methods, monitors any discharge parameter more frequently than required by this permit, the results of such monitoring shall be included in the reporting of values required by the Department. Such increased monitoring frequency shall also be indicated to the Department.
8. Discharge Monitoring Record Keeping Requirements. The facility shall establish and maintain records that include, but are not limited to, the following:
 - a. The date, type, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) the analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.

The facility shall retain for a minimum of three (3) years records of all discharge monitoring information. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the facility or when requested by the Department or local health department (Northeast Colorado Health Department).

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- 9, Discharge Monitoring Reports. The facility shall submit to the Department and local health department (Northeast Colorado Health Department) within 30 days after a discharge the information required in Part VI.A.3 <check section> of this permit.

H. Additional Record Keeping Requirements

1. In addition to the above requirements for the production and land application areas, the facility shall maintain on-site for five years from the date they are created, and make available to the Department or its designee, upon request, the following records:
2. The completed permit application required pursuant to 5 CCR 1002-61, subsection 61.17(5)(d).
3. Records of the date, recipient name and address, and approximate amount of manure or process wastewater transferred to another person, pursuant to Part IV.A.5 <check section> of this permit.
4. All records and information resulting from the monitoring activities required by this Permit shall be conducted consistently with Section xx of Magnum Feedyard, LLC's Environmental Management System (EMS) Manual.
5. All records shall be maintained at the facility and be available at all times to the appropriate facility personnel and to the Department and local agency inspectors.

I. Annual Reporting Requirements

1. The facility shall submit an annual report to the Department by October 31 of each year. The report shall include the following:
 - a. The number and type of animals, whether in open confinement or housed under roof;
 - b. The estimated amount of total manure and process wastewater generated by the facility from October 1 of the previous year to September 30 of the current reporting year (tons or gallons);
 - c. Estimated amount of total manure and process wastewater transferred to other persons by the facility from October 1 of the previous year to September 30 of the current reporting year (tons or gallons);
 - d. The total number of acres for land application covered by the NMP (required under Part IV.A.3) of this permit from October 1 of the previous year to September 30 of the current reporting year;
 - e. The total number of acres of land application sites that were used for application of manure and process wastewater from October 1 of the previous year to September 30 of the current reporting year;
 - f. A summary of all manure and process wastewater discharges from the production area that have occurred from October 1 of the previous year to September 30 of the current reporting year, including date, time, and approximate volume;

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- g. A statement indicating whether the current version of the facility's NMP was developed or approved by a certified nutrient management planner (Note: The Department does not require the use of a certified nutrient management planner to develop or approve NMPs.); and
- h. The signature of the operator or other signatory authority in accordance with Part VI.A.8 <check section> of this permit.

V. Other Requirements

A. Facility Closure and Permit Termination Requirements

- 1. The facility shall be considered closed where the facility has ceased operations and the facility demonstrates to the satisfaction of the Department that there is no remaining potential for a discharge to surface water of manure or process wastewater that was generated by the facility, other than agricultural storm water from land application sites. (Note: Ground water requirements for closure of impoundments can be found in Part IV.B.6 <check section> of this permit.)
- 2. Impoundment Closure. A closed facility shall remove manure and wastewater from all impoundments, to the fullest extent practicable, and backfill earthen impoundments with at least five (5) feet of soil within one hundred twenty (120) days of the facility being closed, unless an alternative procedure and timeline is approved by the Department. (Note: Water quality requirements for facility closure can be found in Part IV.A.6 <check section> of this permit.)
- 3. The facility shall notify the Department and local health department (Northeast Colorado Health Department) that the facility is no longer in operation and request that permit coverage for the operation be terminated. The facility shall include in such notification the demonstration specified in Part IV.A.6.a <check section> of this permit.
- 4. The facility shall notify the Department and local health department (Northeast Colorado Health Department) if the permit is no longer necessary due to a change in operation and the facility no longer needs coverage under this permit. The facility shall describe the reasons why permit coverage is no longer necessary for the operation. The Department will approve these requests on a case-by-case basis.

B. Special Notifications

- 1. Noncompliance notification.
 - a. If, for any reason, the facility does not comply with or will be unable to comply with any discharge limitations, standards or conditions specified in this permit, the facility shall, at a minimum, provide the Department (see Part VI.C <check section> of this permit for the mailing address) and local health department (Northeast Colorado Health Department) with the following information:
 - i. A description of the discharge and cause of noncompliance. Include an estimated volume of waste discharged.
 - ii. The period of noncompliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and

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- iii. Steps being taken to reduce, eliminate, and prevent recurrence of the non-complying discharge.
2. The following instances of noncompliance shall be reported orally (phone number 303-692-3500) within twenty-four (24) hours from the time the facility becomes aware of the circumstances. A written report, containing the information requested in Part VI.A.7.b.i <check section> of this permit, shall be submitted to the Department and local health department (Northeast Colorado Health Department) within five (5) days of the time the facility becomes aware of any of the following circumstances (See Part VI.C <check section> of this permit for the submittal address.):
 - a. Any instance of noncompliance which may endanger human health or the environment, regardless of the cause for the incident.
 - b. Any unanticipated bypass, or any upset or spill, which causes any permit limitation to be exceeded.
 3. The facility shall report to the Department and local health department (Northeast Colorado Health Department) all other instances of noncompliance (except as required in Part VI.A.7.b.iv <check section> of this permit), which are not required to be reported within twenty-four (24) hours, by the 28th day of the month following the date(s) that the incident(s) took place. The reports shall contain the information listed in the "Noncompliance Notification" (Part VI.A.7.b.i <check section>) section of this permit.
 4. If the facility knows in advance of the need for a bypass, it shall submit written notification to the Department and local health department (Northeast Colorado Health Department) of the need for such bypass at least ten days before the date of the contemplated bypass.
 5. The facility shall give advance notice to the Department and local health department (Northeast Colorado Health Department) of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.
 6. Submission of incorrect or incomplete information. Where the facility becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or report to the Department, it shall promptly submit such facts or information.
 7. Compliance schedule notification. No later than 14 calendar days following a date identified in the compliance schedules in this permit, the facility shall submit to the Department and local health department (Northeast Colorado Health Department) either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.
 8. Change in discharge
 - a. The facility shall inform the Department and local health department (Northeast Colorado Health Department) in writing of any planned physical alterations or additions to the permitted facility, such that:

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- i. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged; or
 - ii. The alteration or addition results in a change in the manure or process wastewater disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in this permit, including notification of additional use or disposal sites not reported pursuant to an approved land application plan.
9. Whenever notification of any planned physical alterations or additions to the permitted facility is required pursuant to this section, the facility shall furnish the Department and local health department (Northeast Colorado Health Department) such plans and specifications which the Department deems reasonably necessary to evaluate the effect on the manure or process wastewater disposal practices. If the Department finds that such new or altered discharge might be inconsistent with the conditions of the permit, the Department shall require a new or revised permit application and shall follow the procedures specified in the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61, Sections 61.5 through 61.6, and 61.15, prior to the date that the new or altered discharge takes place.

C. Signatory requirements

1. All reports and other information required by the Department shall be signed and certified for accuracy by the facility in accord with the following criteria:
 - a. Authorized signatory
 - i. In the case of corporations, by a principal executive officer of at least the level of vice-president or his or her duly authorized representative, if such representative is responsible for the overall operation of the facility from which a discharge originates;
 - ii. In the case of a partnership, by a general partner;
 - iii. In the case of a sole proprietorship, by the proprietor;
 - iv. In the case of a municipal, state, or other public facility, by either a principal executive officer, ranking elected officer, or other duly authorized employee.
 - b. Certification requirement. The facility shall make the following certification on all reports and other information required by the Department:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

D. Submittal Address

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1. All annual reports, discharge monitoring reports, and other information required by the Department shall be submitted in electronic format via e-mail to the attention of Phyllis Woodford at phyllis.woodford@state.co.us.
2. Where submittal via e-mail is not possible, information may be submitted in electronic format on compact disk or 3 ½ inch diskette by mail to the address below. Compact disks and diskettes must be clearly marked with the facility name, permit number, and date.

PHYLLIS WOODFORD, PROGRAM MANAGER
ENVIRONMENTAL AGRICULTURE PROGRAM
COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
SD-EAP-B2
4300 CHERRY CREEK DRIVE SOUTH DENVER, CO 80246-1530

VI. Other Cross Media Requirements

A. Operational Flexibility

1. In complying with any of the above objectives and targets, the facility may present to the Department an analysis to:
 - a. Demonstrate cross media impacts of certain control options or measures;
 - b. Demonstrate and request alternative monitoring requirements based upon aspects and impacts analysis; or
2. Demonstrate that greater environmental benefits will be garnered if the required capital expenditure is made elsewhere.

B. Hazardous Waste Requirements

1. Used Oil Storage. In addition to compliance with its Spill Prevention, Control, and Countermeasure (SPCC) plan, Magnum Feedyard, LLC shall comply with the following requirements for the storage of used oil, pursuant to 40 CFR §279.22:
 - a. Magnum Feedyard, LLC shall not store used oil in units other than tanks, containers, or units subject to regulation under standards for hazardous waste storage facilities at 40 CFR §264 or §265.
 - b. Containers and aboveground tanks used to store used oil must be:
 - i. In good condition (no severe rusting, apparent structural defects or deterioration), and;
 - ii. Not leaking (no visible leaks).
 - c. Containers and aboveground tanks used to store used oil must be labeled or marked clearly with the words "Used Oil."
2. Medical Waste. Magnum Feedyard, LLC shall properly dispose of veterinary sharps, needles, syringes, and associated waste in a designated medical waste container.

3. Universal Waste. Magnum Feedyard, LLC shall manage universal wastes, at a minimum, in accordance with Colorado's Universal Waste Rule at 6 CCR 1007-3 Part 273. Such wastes may include batteries, mercury containing lighting wastes and other devices, aerosol cans, and electronic devices and components. Although the Universal Waste Rule provides a set of reduced management standards for these widely generated waste materials, the facility may, at its option, manage such materials in accordance with the full hazardous waste management requirements established at 6 CCR 1007-3 Parts 99, 100, 260 – 268.

C. Emergency Preparedness

1. Spill Prevention, Control, and Countermeasure Plan

The facility has a certified Spill Prevention, Control, and Countermeasure (SPCC) plan in place to address storage and handling of petroleum-based materials. The facility shall comply with the review and notification procedures outline in the SPCC plan.

2. Accidental Discharges

In case of an accidental discharge not otherwise required to be reported under Part VI **<check section>** of this permit, the facility shall immediately notify the Department by telephone at 1-877-518-5608 of the location of discharge, type of waste, volume, and corrective actions taken.

- a. Accidental discharges include, but are not limited to, the following:
 - i. Discharges which cause any permit limitation to be violated;
 - ii. Discharge of materials or substances as listed under 40 CFR 122 Appendix D, Tables 2 through 5; and
3. Any discharge of any substance that would have an adverse affect on the receiving water.
 - a. Within five business days following an accidental discharge, the facility shall submit a written report describing the causes of discharge and measures to be taken to prevent similar future occurrences.

VII. Standard Permit Conditions

A. Management Requirements and Responsibilities

1. Bypass

- a. A bypass which may cause a discharge to waters of the state is prohibited, and the Department may take enforcement action against a facility for such a bypass, unless:
 - i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the facility could

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have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

- iii. The facility submitted notices as required in "Non Compliance Notification," Part VI.A.7.b <check section> of this permit.

2. Upsets

a. Effect of an Upset

An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph (b) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. Conditions Necessary for a Demonstration of Upset

A facility who wishes to establish the affirmative defense of upset shall demonstrate through properly signed contemporaneous operating logs, or other relevant evidence that:

- i. An upset occurred and that the facility can identify the specific cause(s) of the upset;
- ii. The permitted facility was at the time being properly operated and maintained;
- iii. The facility submitted notice of the upset as required in Part VI.A.7.b.ii <check section> of this permit (24 hour notice); and
- iv. The facility took all reasonable steps to minimize or prevent any discharge, sludge use, or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

In addition to the demonstration required above, the facility who wishes to establish the affirmative defense of upset for a violation of effluent limitations based upon water quality standards shall also demonstrate through monitoring, modeling, or other methods that the relevant standards were achieved in the receiving water.

c. Burden of proof

In any enforcement proceeding, the facility seeking to establish the occurrence of an upset has the burden of proof.

3. Reduction, Loss, or Failure of Facility

The facility has the duty to halt or reduce any activity if necessary to maintain compliance with the effluent limitations of this permit.

In an enforcement action, a facility shall not use a defense that it would be necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Removed Substances

Solids, sludges, manure, or process wastewater, or any other such material removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the state, and in accordance with the terms and conditions of this permit.

5. Minimization of Adverse Impacts

The facility shall take all reasonable steps to minimize or prevent any adverse impact to waters of the state resulting from any discharge. As necessary, accelerated or additional monitoring of the discharge will be required to determine the nature and impact of noncompliance.

6. Discharge Point

Any discharge to surface water from a point source other than specifically authorized herein is prohibited.

7. Inspections and Right to Entry

The facility shall allow the Department, and/or authorized representatives, upon the presentation of credentials:

- a. To enter upon the facility's premises where a regulated facility or activity is located or in which any records are required to be kept under the terms and conditions this permit;
- b. At reasonable times to have access to inspect and copy any records required to be kept under the terms and conditions of the permit and to inspect any monitoring equipment or monitoring method required in the permit; and
- c. To enter upon the facility's premises in a reasonable manner and at a reasonable time to inspect and/or investigate any actual, suspected, or potential source of water pollution, or to ascertain compliance or noncompliance with any applicable state or federal statute or regulation or any order promulgated by the Department. The investigation may include, but is not limited to the following: sampling of any discharge and/or process wastewater, the taking of photographs, interviewing of any persons having any knowledge related to this permit or alleged violation, access to any and all facilities or areas within the facility's premises that may have any effect on the discharge, permit, or alleged violation. Such entry is also authorized for the purpose of inspecting and copying records required to be kept concerning any discharge source.

In the making of such inspections, investigations, and determinations, the Department, insofar as practicable, may designate as its authorized representatives any qualified personnel of other State-authorized agencies. The Department may also request assistance from any other state or local agency or institution.

- d. The Department shall split samples taken by the facility during any investigation with the facility, if requested to do so by the facility.

8. Duty to Provide Information

The facility shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the facility's coverage under this permit, or to determine compliance with the permit.

9. Availability of Reports

Except for data determined to be confidential under Section 308 of the Federal Clean Water Act and the Colorado Discharge Permit System Regulations 5 C.C.R. §1002 61, Section 61.5 (4)(b), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department.

As required by the Federal Clean Water 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 Clean Water Act, and Section 25 8 610, C.R.S.

10. Transfer of Ownership or Control

A permit may be transferred to a new facility only upon the completion of the following:

- a. The current facility notifies the Department in writing 30 days in advance of the proposed transfer date;
- b. The notice includes a written agreement between the existing and new facilities containing a specific date for transfer of permit responsibility, coverage, and liability between them;
- c. The Department does not notify the existing facility and the proposed new facility of its intent to modify, or revoke and reissue, the permit; and
- d. Fee requirements of the Colorado Discharge Permit System Regulations, 5 C.C.R. § 1002-61, Section 61.15, have been met.

11. Contract Requirements

The facility shall include pertinent terms and conditions of this permit in all contracts for receipt by the facility of any effluent not required to be received by the facility.

B. Additional Conditions

1. Change in Conditions. Any change to the treatment facility, or to the process wastewater it receives, which results in an inability to meet any condition for eligibility to be covered under this permit, must be reported to the Department and local health department (Northeast Colorado Health Department) within 10 working days of the date the facility becomes aware of such change. The Department will require the facility to apply for and obtain an individual permit if it is determined that the facility no longer qualifies for authorization to discharge under this permit.

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2. Other Legal Requirements. No condition of this permit shall release the facility from any responsibility or requirements under other statutes or regulations, Federal, State, Indian Tribe, or Local.
3. Discharge Site. Authorization to discharge shall be site specific and not transferable to alternative locations.
4. Permit Violations. Failure to comply with any terms and/or conditions of this permit shall be a violation of the 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.
5. Civil and Criminal Liability. Except as provided in Part XVI.A. of this permit, nothing in permit shall be construed to relieve the facility from civil or criminal penalties for noncompliance. See 40 C.F.R. §122.60.
6. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the facility from any responsibility, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Federal Clean Water Act.
7. Department Emergency Power. Nothing in this permit shall be construed to prevent or limit application of any emergency power of the Department.
8. Severability. The provisions of this permit are severable. If any provisions of this permit or the application of any provision of this permit in any circumstance is held invalid, the application of such provision to other circumstances and the application of the remainder of this permit shall not be affected.
9. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the facility from any responsibilities, liabilities, or penalties to which the facility is or may be subject under Section 311 (Oil and Hazardous Substance Liability) of the Federal Clean Water Act, except as recognized by federal law.
10. Property Rights. The issuance of this permit does not convey any property or water rights in either real or personal property or stream flow or any exclusive privileges, nor does it authorize any injury to private property, any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
11. Modification, Suspension, or Revocation of Permit. Requests for modification, revocation and reissuance, or termination of this permit may be filed by the facility or any person adversely affected or aggrieved by the terms of this permit.

All permit modification, termination or revocation and reissuance actions shall be subject to the requirements of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61, Sections 61.5 (b & c), 61.6, 61.7 and 61.15, except for minor modifications.

- a. The Department may modify, suspend, or terminate this permit in whole or in part during its term, for reasons determined by the Department including, but not limited to, the following:

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- i. Violation of any terms or conditions of this permit;
 - ii. Obtaining a permit by misrepresentation or failing to disclose any fact that is material to the granting or denial of a permit, or to the establishment of terms or conditions of the permit; or
 - iii. Materially false or inaccurate statements or information in the application for this permit; or
 - iv. A determination that activity under the permit endangers human health or the classified or existing uses of state waters and can only be regulated to acceptable levels by modifications to or termination of the permit.
- b. This permit may be modified in whole or in part for the following causes, as applicable, provided that such modification complies with the provisions of Section 61.10 of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61:
- i. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;
 - ii. When the Department receives new information which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions at the time of issuance. This includes information derived from effluent testing required under Section 61.4 (7)(e) of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61. This provision allows a modification of the permit to include conditions that are less stringent than the existing permit only to the extent allowed under Section 61.10 of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61.
 - iii. When the standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. The permit may be modified during its term for this cause only as follows:
 - (A) The permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA-approved water quality standard, or an effluent limitation set forth in 5 C.C.R., §1002-62, §62.1; and
 - (B) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a Water Quality Control Commission action with respect to the water quality standard or effluent limitation on which the permit condition was based; and
 - (C) The facility requests modification as required in the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61, after the notice of final action by which the EPA effluent limitation guideline, water quality standard, or effluent limitation is revised, withdrawn, or modified; or

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- (D) For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the facility in accordance with this Regulation, within 90 days of judicial remand.
- iv. When the Department determines that good cause exists to modify a permit condition because of events over which the facility has no control and for which there is no reasonable available remedy;
 - v. When the facility has received a variance;
 - vi. When modification is required to incorporate applicable toxic effluent limitation or standards adopted pursuant to §307(a) of the Federal Clean Water Act;
 - vii. When modification is required by the reopener conditions in the permit;
 - viii. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the facility under Section 61.8 (b) of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61;
 - ix. To establish a pollutant notification level required in Section 61.8 (c) of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61; or
 - x. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions, to the extent allowed in Section 61.10 of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61;
 - xi. For any other cause provided in Section 61.10 of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61.
- c. At the request of a facility, the Department may modify or terminate a permit and issue a new permit if the following conditions are met:
- i. The Department has been notified of the proposed modification or termination and does not object in writing within 30 days of receipt of notification;
 - ii. The Department finds that the facility has shown reasonable grounds consistent with the federal and state statutes and regulations for such modifications or termination;
 - iii. Requirements of Section 61.15 of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61, have been met; and
- d. Modification (except for minor modifications), termination or revocation, and reissuance actions for permits shall be subject to the requirements of Sections 61.5 (2 & 3), 61.6, 61.7 and 61.15 of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61. The Department shall act on a request to modify the permit within 180 days of receipt thereof. Except for minor modifications, the terms of the existing permit govern

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and are enforceable until the newly issued permit is formally modified or revoked and reissued.

- e. Upon consent by the facility, the Department may make minor permit modifications without following the requirements of Sections 61.5 (2 & 3), 61.7, and 61.15 of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61. Minor modifications to this permit are limited to:
 - i. Correcting typographical errors;
 - ii. Increasing the frequency of monitoring or reporting by the facility;
 - iii. Changing an interim date in a schedule of compliance, provided the new interim date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;
 - iv. Allowing for a transfer in ownership or operational control of a facility where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new facilities has been submitted to the Department; or
 - v. Changing the construction schedule for a facility which is a new source, but no such change shall affect a facility's obligation to have all pollution control equipment installed and in operation prior to discharge; or
 - vi. Deleting a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits;
- f. The filing of a request by the facility for permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- g. All permit modifications and reissuances are subject to the antibacksliding provisions set forth in Sections 61.10 (e) through (g) of the Colorado Discharge Permit System Regulations, 5 C.C.R. §1002-61.

VIII. Environmental Management Program(s)

Magnum Feedyard, LLC has established an environmental management program. The program is incorporated in part into facility's EMS manual and related documents. The environmental program includes goals and objectives, timelines for meeting the goals and a designation of responsibility.

- A. Modifications can occur to the facility without a permit modification so long as the total pollutant discharge for the facility does not exceed the above limits. If a modification to the facility occurs without a permit modification, the facility shall notify the Department at least ten days before commencing the modification.

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- B. The facility shall conduct a review to determine whether any modification to the facility or change in regulation requires the facility to comply with any additional regulatory requirements. If an additional regulatory requirement is applicable, the facility shall demonstrate to the Department compliance with this requirement within 30 days of completion of the modification. If control equipment is required to maintain emissions below the emission limits, the facility shall provide the Department with detailed information about the necessary control equipment within 30 days of commencing the construction.

IX. Structure and Responsibility

The facility shall define, document and communicate roles, responsibilities and authorities to facilitate effective environmental management. The facility's procedures for structure and responsibility can be found in Magnum Feedyard's EMS Procedures Manual, CP #6 of the facility's EMS manual.

X. Training, Awareness, and Competence

The facility shall ensure all personnel whose work may create a significant impact upon the environment receive appropriate training. The appropriate training, awareness and competence procedures shall be developed and implemented as part of a compliance plan. Training procedures shall include, but are not limited to, training in implementation of the facility's SPCC plan and emergency preparedness training. Procedures for training, awareness, and competence can be found in Magnum Feedyard, LLC's EMS Procedures Manual at CP #7.

XI. EMS Audits and Compliance

A. External EMS Compliance and Conformance Audits

Magnum Feedyard, LLC is required to maintain an EMS and conduct external EMS conformance and compliance audits as specified below. Conditions in this permit that constitute a variance from the rules of the Department are conditioned on the facility maintaining an externally audited EMS as set forth in this section.

1. The facility's EMS shall be a facility-wide system for environmental performance and regulatory compliance with these elements, at a minimum:
 - a. 5 C.C.R. §1002-61, Section 61.17
 - b. 5 C.C.R. §1002-81
 - c. 5 C.C.R. §1004-1
2. Audit Frequency. The facility shall conduct an external EMS compliance and conformance audit as provided in this part, within 12 months of the effective date of this permit and every 24 months thereafter.
3. Audit Summary. An electronic or hard copy summary of the EMS conformance audit shall be maintained on-site. The summary shall be signed by the external EMS auditor and a responsible official of the facility, and shall describe all EMS deficiencies and noncompliance issues. For serious noncompliance issues, the summary of the environmental compliance audit results shall summarize the objective evidence found in the environmental compliance

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audit, describe corrective actions planned by the facility including compliance dates, and detail follow-up audit activity planned by the facility.

- a. Magnum Feedyard, LLC shall submit an electronic version of the summary of the environmental compliance audit results to the Department.
 - b. If the facility opts to seek self-audit law penalty immunity pursuant to sections 25-1-114.5 and 25-1-114.6, C.R.S., the facility shall submit to the Department the required documentation to qualify for immunity within the time frame allowed by the self-audit law program.
4. Notification of Audit. The facility shall provide the Department advance notification of external audits with at least 30 days notice of the date when the external audit will commence, so that the Department can determine in advance what the observer roles, if any, the Department staff may play in audits. The facility agrees to facilitate participation by the Department staff in audit activities if requested by the Department.
 5. Certification of Auditor Independence. At the time at which the facility notifies the Department of an impending external audit, the facility shall also submit to the Department a certification of the auditor's external status. If the Department determines the auditor was not external to the facility, the Department may require the facility to select a new external auditor.
 6. Audit Scope. The external EMS auditor and facility shall define an EMS audit scope and provide it to the Department in advance of the external EMS audit. The facility shall supply all information required for the external EMS audit to the auditor, including all reported noncompliance information.
 7. Content of External EMS Audits.
 - a. The external EMS auditor must determine whether the facility properly implemented its EMS. The external EMS auditor must identify instances where the facility did not conform with the EMS.
 - b. The external EMS auditor must determine whether the facility took any action to correct deficiencies, if any existed, with its EMS or implementation of its EMS.
 - c. The external EMS auditor must determine whether the facility complied with the limits and conditions in this permit.

B. EMS Management Review

The facility shall develop, document, and implement procedures to conduct a periodic management review of the facility's EMS. Magnum Feedyard, LLC's management review procedures can be found in the facility's EMS Procedures Manual, CP#18.

C. Compliance Schedule Development

The facility shall achieve compliance with all effluent limits and other requirements. If additional treatment and/or maintenance are needed to comply with the discharge limitations, a schedule by which the facility shall provide such treatment in the shortest possible time shall be

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developed and submitted to the Department. The schedule shall contain a description of the necessary steps for completion. None of the steps shall exceed nine months.

A compliance schedule can be made a part of this permit at any time during the effective period of the permit. In addition, discharge limits and other work practices may be developed during the interim of the compliance schedule period.

No later than 14 calendar days following each date in the compliance schedule and the final date for compliance, the facility shall submit a progress report indicating whether or not compliance was achieved for the specific steps. If compliance was not met, the facility must explain the reason for the delay, when it expects to comply with the step, and any remedial actions taken or planned.

XIII. Communications

Magnum Feedyard, LLC's Community Involvement and Communications Plan (CICP) is attached to this permit.

- A. The facility shall identify local stakeholders who will receive the notice of the availability of the permit for public comment, and will receive any future formal notices.
- B. The facility's CICP shall include a process to ensure adequate public notice and promote public involvement with the issuance of this permit.
- C. As a means to improve public accessibility to compliance information and results of the external compliance audit, the Department will post the following information on the Department's Internet site within 30 days of the Department's receipt, unless a different amount of time is provided for below. The posted information shall include:
 1. Annual reports and results of discharge monitoring as required by this permit. Water quality data posted on the Internet will be facility-wide. Reports may be electronically formatted, submitted, and certified.
 2. External compliance audit summaries, beginning with the summary from the first compliance audit.
 3. Any notable improvements to the facility's EMS and resulting environmental performance.
 4. Any notifications by the facility of deviations or noncompliance with a term or condition of this permit.
 5. A summary of the Department's investigation and monitoring of the facility's response to any identified deviations, noncompliance, deficiencies or potential problems with the terms and conditions of this permit. The Department shall summarize each issue and its resolution on the Internet as soon as possible, but normally within 90 days of being informed of the situation, unless a longer investigation is required.

XIV. EMS Documentation and Document Control

Magnum Feedyard, LLC's EMS documentation and document control procedures can be found in the facility's Records document and in the Procedures Manual .

1. The facility shall establish and maintain information, in paper or electronic form, to describe core elements of the management system and their interaction and to provide direction to related documentation. The facility shall maintain the proper documentation to demonstrate to an auditor that an EMS exists and is implemented at the facility, as required by 5 CCR 1004-1.
2. Required records, permits, notifications, etc., must be kept on site and available for an inspector at all times.
12. Permit Renewal Application. If the facility desires to continue to discharge, a permit renewal application shall be submitted to the Department and local health department (Northeast Colorado Health Department) at least 180 days before the permit expires.
13. Confidentiality. Any information relating to any secret process, method of manufacture or production, or sales or marketing data, which may be acquired, ascertained, or discovered, whether in any sampling investigation, emergency investigation, or otherwise, shall not be publicly disclosed by any member, officer, or employee of the Water Quality Control Commission or the Department, but shall be kept confidential. Any person seeking to invoke the protection of this paragraph (10) shall bear the burden of proving its applicability. This section shall never be interpreted as preventing full disclosure of effluent data.
14. Fees. The facility is required to submit an annual fee as set forth in the Water Quality Control Act, Section 25-8-502 (I) (b), C.R.S., and the Colorado Discharge Permit System Regulations, 5 C.C.R. § 1002-61, Section 61.15. Failure to submit the required fee when due and payable is a violation of the permit and will result in enforcement action pursuant to Sections 25-8-601, et seq., C.R.S. If the operation is to be discontinued, the owner must notify the Department in writing requesting cancellation of the permit. Upon notification, annual fee billing will be terminated.

Phyllis Woodford, Manager
Sustainability Division
Environmental Agriculture Program

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Definitions

- A. Bypass: The intentional diversion of waste streams from any portion of a permitted operation.
- B. Severe Property Damage: 1) substantial physical damage to property at the permitted operation to cause them to become inoperable; or 2) substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.
- C. Spill: An incident in which flows or solid materials are accidentally or unintentionally allowed to flow or escape so as to be lost from the permitted operation as defined in the Colorado Water Quality Control Act, which may cause pollution of state waters.
- D. Upset: An exceptional incident in which there is unintentional and temporary noncompliance with permit discharge limitations because of factors beyond the reasonable control of the facility. An upset does not include noncompliance to the extent caused by operational error, improperly designed retention structures, inadequate retention structures, lack of preventive maintenance, or careless or improper operation.