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November 9, 2021

Ref: 8WD-CWW

SENT VIA EMAIL
DIGITAL READ RECEIPT REQUESTED

Kathy Shreve, WYPDES Discharge Permitting Group Supervisor
Wyoming Department of Environmental Quality
Water Quality Division
Kathy.shreve@wyo.gov

RE: Comments on Draft Aethon Energy Operating, LLC Permit Major Modification - WY0002062

Dear Ms. Shreve:

The Wyoming Department of Environmental Quality (WDEQ) published the draft Aethon Energy Operating, LLC permit major modification, WY0002062 on October 15, 2021 for a 30-day public comment period. The EPA reviewed the draft permit major modification and has the following comments:

1. Page 1 of the Statement of Basis (SoB), item 3) states that the draft permit modification will "Remove effluent limits and sampling requirements for Radium 226, Barium, and Zinc based on the site-specific effluent data collected within and below..." The SoB does not have sufficient justification or rationale for the decision-making used to determine the removal of limits and sampling requirements and ensure antibacksliding requirements have been met (per 40 C.F.R.§124.56 and § 122.44(l)(2)). Incorporate information in the SoB that summarizes the comparison of the effluent data to the water quality standards (WQS) for justification to remove these requirements from the permit, and include information to support the applicable antibacksliding exclusion.

2. Page 1 of the SoB, item 4) indicates that the draft permit modification will "Remove routine sampling requirements for Aluminum, Arsenic, Beryllium, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Selenium, Silver, and Thallium… Sampling data from the facility confirms that the effluent concentrations of these constituents are well below water quality standard thresholds…" The SoB does not have sufficient justification or rationale for the decision-making used to determine the removal of these sampling requirements and ensure antibacksliding requirements have been met (per 40 C.F.R.§124.56) and § 122.44(l)(2)). Incorporate information in the SoB that summarizes the comparison of the effluent data to the WQS for justification to remove these requirements from the permit, and include information to support the applicable antibacksliding exclusion.

3. Page 8 of the SoB indicates that annual acute whole effluent toxicity (WET) tests shall only be performed on grab samples taken from each outfall "which discharges on eight (8) or more days within a calendar year." This requirement is also reflected in Part I.A.3.a of the draft permit. Additionally, a footnote associated with the permitted temperature limit in the effluent limit table, in Part I.A.a.3 of the draft permit, states:

   > *"Temperature effluent limit only applies to outfalls that discharge on eight (8) or more days within a calendar year… Outfalls which have only seven discharge days or less during a calendar year are not required to be measured for temperature..."*

   The SoB does not contain a clear justification or rationale for the decision-making used to determine these 8-day provisions for WET acute testing or temperature limits (per 40 C.F.R.§124.56).

   Based on information provided to EPA by WDEQ in a phone conversation during the public comment period, WDEQ indicated that low volume intermittent discharges from some outfalls would not produce enough volume for WET sampling or to reach receiving waters (i.e. Alkali Creek). In the conversation with EPA, WDEQ agreed to add additional background information in the SoB to justify the WET and temperature monitoring requirements. The SoB will also be updated to include additional data and justification (e.g., description of discharge flow attributed to each outfall, historical data, flow calculations, evaporation rates, discharge distance to receiving stream, etc.) to ensure that low volume intermittent discharges not subject to WET or temperature monitoring do not produce enough volume for sampling and will not reach receiving waters.

   Additionally, WDEQ is using a general minimum discharge time period (i.e. 8 days or more) in the draft permit for WET and temperature monitoring requirements. This does not account for the volume of discharge and whether it would reach the receiving water. Permitting an outfall discharge flow volume (e.g. "de minimus" volume) for these discharges would be more appropriate and protective for the receiving water. This will help ensure that WET and temperature monitoring/testing requirements are applied to all discharge volumes with the potential to reach receiving waters, regardless of the duration of the discharge.

Again, thank you for the opportunity to comment on this draft permit. If you have any questions concerning the above, please contact Qian Zhang of my staff at (303) 312-6267 or zhang.qian@epa.gov.

Sincerely,

JUDY BLOOM Digitally signed by JUDY BLOOM Date: 2021.11.09 09:21:52 -07'00'

Judy Bloom, Manager
Clean Water Branch

Cc: Jason Thomas, WYPDES Program Manager