Permit No. 0002-A

City of Helena

CITY OF HELENA, MONTANA
INDUSTRIAL USER PERMIT

In accordance with the provisions of Title 6, Chapter 4, Section 14 (6-4-14) of Helena City Code and Helena City Ordinance 2391:

Montana Rail Link	**1500 Railroad Avenue**
PO Box 16390	**Helena, MT 59601**
Missoula, MT 59808-6390	**Contact: Rick Shelley**

Montana Rail Link is hereby authorized to discharge industrial wastewater from the above-identified facility and through the outfalls identified herein into the City of Helena wastewater collection and treatment system in accordance with the conditions set forth in this permit. Compliance with this permit does not relieve the permittee of its obligation to comply with any, or all, applicable pretreatment regulations, standards or requirements under local, State and Federal laws, including any such regulations, standards, requirements, or laws that may become effective during the term of this permit.

Noncompliance with any term or condition of this permit shall constitute violation of the City of Helena Sewer Use Ordinance found in Title 6, Chapter 4 of Helena City Code.

This permit shall become effective on January 1, 2021 and shall expire on midnight December 31, 2025.

A permit renewal application must be filed for a renewal permit in accordance with the requirements of 6-4-14(E) of Helena City Code, a minimum of 90 days prior to the expiration date.

By:_____

Mark Fitzwater, Wastewater Superintendent

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PART 1- EFFLUENT LIMITATIONS

a. On the effective date of the permit until the expiration date the permittee is authorized to discharge process wastewater to the City of Helena sewer system for the outfall(s) listed below.

Description of outfalls:

Outfall 001: Valve is installed on the front of the tank facing west. Olympus Environmental, MRL, and the City of Helena all use this sampling site to collect grab samples.

b. During the effective permit period the discharge from Outfall 001 shall not exceed the following effluent limitations.

Effluent Limitations

Parameter	Daily Maximum (ug/L)
Benzene	**50**
BTEX	**750**

c. The permittee shall not discharge wastewater containing any substances from any of the outfalls that have characteristics described in Section A- GENERAL CONDITIONS AND DEFINITIONS, 13. General Prohibitive Standards of this permit.

d. All discharges shall comply with all other applicable laws, regulations, standards, and requirements contained in City of Helena Sewer Use Ordinance found in Title 6, Chapter 4 of Helena City Code and any applicable State and Federal pretreatment laws, regulations, standards, and requirements including any such laws, regulations, standards, or requirements that may become effective during the term of this permit.

PART 2- MONITORING REQUIREMENTS

a. From the period beginning on the effective date of the permit until the expiration date, the permittee shall collect a **grab** sample ~~prior to and~~ during discharge from Outfall 001 for the following parameters, at the indicated frequency:

Parameter	Monitoring Frequency
Benzene	**[add monitoring frequency, note minimum is once every six months]**
BTEX	**[add monitoring frequency, note minimum is once every six months]**

b. All handling and preservation of collected samples and laboratory analyses of samples shall be performed in accordance with 40 CFR Part 136 and amendments thereto unless specified otherwise in the monitoring conditions of this permit.

PART 3 - SPECIAL REQUIREMENTS

During this permit cycle, MRL is required to notify the City of Helena when the waste oil tank is pumped and contents hauled off site. This notification shall include the amount of oil pumped and the date it was hauled. The notification needs to be sent in with the monthly monitoring report for the month it was disposed of.

Commented [MC1]: Why is this removed? The Control Authority can require this, more stringent, sampling requirement.

Commented [LE2]: The monitoring frequency needs to be in the permit to be enforceable and to provide clarity.
See 40 CFR 403.8(f)(1)(iii)(B)(*4*) which states, both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:
(*4*) ...sampling frequency...

The minimum sampling frequency for SIUs is once every six months see 40 CFR 403.12(h). However, the City can require more stringent sampling frequencies. Under Part 4 of the permit, the City is requiring monthly reports so it seems that the City would want the sampling frequency to be at least monthly?

Commented [MC3R2]: No change. I believe we are in compliance with 40 CFR 403.8(f)(1)(iii)(B)(*4*): as stated the sampling frequency is once during each discharge. I believe we are also in compliance with 40 CFR 403.12(h): the IU must submit "a description of the nature, concentration, and flow of the [HYPERLINK "https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=0d89e8d7076bc1372976137880905986&term_occur=999&term_src=Title:40:Chapter:I:Subchapter:N:Part:403:403.12"] required to be reported" a minimum of every six months. The permit is revised to reflect a six month reporting schedule. It is conceivable that MRL does not discharge for 6 months as they have previously reported no discharge for the prior monthly reporting period. A report can be incompliance with this CFR and have zero discharge.

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Part 4 - REPORTING REQUIREMENTS

Compliance reports containing the following information shall be submitted monthly. The reports are due on or before the 28th of the month following the reporting period. A mailed report must be received by the Industrial Pretreatment Administrator at the address designated on Part 4.f of this Permit by that date to avoid being in non-compliance.

Reporting Period	Report Due Dates
January 1 to ~~January 31~~June 30	~~February~~ July 28
~~February~~ July 1 to ~~February 28~~December 31	~~March 28~~January 28
~~March 1 to March 31~~	~~April 28~~
~~April 1 to April 30~~	~~May 28~~
~~May 1 to May 31~~	~~June 28~~
~~June 1 to June 30~~	~~July 28~~
~~July 1 to July 31~~	~~August 28~~
~~August 1 to August 31~~	~~September 28~~
~~September 1 to September 30~~	~~October 28~~
~~October 1 to October 31~~	~~November 28~~
~~November 1 to November 30~~	~~December 28~~
~~December 1 to December 31~~	~~January 28~~

a. Monitoring Reports: Monitoring results obtained shall be summarized and reported on an approved Industrial User Monitoring Report Form once per month (see Attachment 1). The reports are due on the 28th day of each month following the reporting period month. Reports not received within 30 days of the date due will be considered delinquent and shall be cause for enforcement in accordance with the City's approved Enforcement Response Plan.

b. The report shall indicate the nature and concentration of all pollutants in the effluent for which sampling and analyses were performed during the calendar month preceding the submission of each report including gallons of water discharged as recorded on the meter.

c. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures prescribed in 40 CFR Part 136 or amendments thereto, or otherwise approved by EPA or as specified in this permit, the results of such monitoring shall be included in any calculations of actual daily maximum or monthly average pollutant discharge and results shall be reported in the monthly report submitted to the City of Helena. Such increased monitoring frequency shall also be indicated in the monthly report.

d. Automatic Resampling: If the results of the permittee's wastewater analysis indicate that a violation of this permit has occurred, the permittee must:

   i. Inform the City of Helena of any violation within 24 hours after becoming aware of the violation and;

   ii. Repeat the sampling and pollutant analysis and submit, in writing, the results of this second analysis within 30 days of the first violation

e. Accidental Discharge Report: The permittee shall notify the City of Helena immediately upon the

occurrence of an accidental discharge of substances prohibited by Helena City Code 6-4-5 or any slug loads or spills that may enter the public sewer. During normal business hours the City of Helena Wastewater Treatment Facility shall be notified by telephone at 406-457-8555. The notification shall include location of discharge, date and time thereof, type of waste, including concentration and volume, and corrective actions taken. In the event of an accidental discharge of flammable or explosive materials, the permittee shall immediately notify the Helena Wastewater Treatment Facility and the Helena Fire Department at 406-447-8470 or 911. The permittee's notification of accidental releases in accordance with this section does not relieve it of other reporting requirements that arise under local, State or Federal laws and does not shield the permittee from possible enforcement action by the City of Helena.

Within five days following an accidental discharge, the permittee shall submit to the City of Helena a detailed written report. The report shall specify:

i. Description and cause of the upset, slug load or accidental discharge, the cause thereof, and the impact on the permittee's compliance status. The description should also include location of discharge, type, concentration and volume of waste.

ii. Duration of noncompliance, including exact dates and times of non-compliance and, if the noncompliance is continuing, the time by which compliance is reasonably expected to occur.

iii. All steps taken or to be taken to reduce, eliminate, and/or prevent recurrence of such an upset, slug load, accidental discharge, or other conditions of noncompliance.

f. All reports required by this permit shall be delivered to the City of Helena at the following address:

City of Helena
Engineering Division
Pretreatment Program
316 N Park Avenue
Helena MT 59601

PART 5 - REOPENER CLAUSE

a. This permit may be reopened and modified to incorporate any new or revised requirements contained in the MPDES permit that will be issued to the City of Helena Wastewater Treatment Facility.
b. This permit may be reopened and modified to incorporate any new or revised requirements resulting from the City of Helena's re-evaluation of its local limits.
c. This permit may be reopened and modified to incorporate any new or revised requirements developed by the City of Helena as are necessary to ensure POTW compliance with applicable management requirements promulgated by EPA (40 CFR 503).

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STANDARD CONDITIONS FOR PERMITS

Section A – GENERAL CONDITIONS AND DEFINITIONS

1. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provisions to other circumstances, and the remainder of this permit, shall be affected.

2. Duty to Comply

The permittee must comply with all conditions of this permit. Failure to comply with the requirements of this permit may be grounds for administrative action, or enforcement proceedings including civil or criminal penalties, injunctive relief, and summary abatements.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or correct any adverse impact to the public treatment plant or the environment resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

4. Permit Modification

This permit may be modified for good causes including, but not limited to, the following:

a. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements
b. Material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit
c. A change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge
d. Information indicating that the permitted discharge poses a threat to the City of Helena's collection and treatment systems, POTW personnel or the receiving waters
e. Violations of any terms or conditions of the permit
f. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting
g. To correct typographical or other errors in the permit
h. To reflect transfer of the facility ownership and/or operation to a new owner/operator
i. Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Permit Termination

This permit may be terminated for the following reasons:

a. Falsifying self-monitoring reports
b. Tampering with monitoring equipment
c. Refusing to allow timely access to the facility premises and records

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d. Failure to meet effluent limitations
e. Failure to pay fines
f. Failure to pay sewer charges
g. Failure to meet compliance schedules

6. Property Rights

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

7. Limitation on Permit Transfer

Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the Pretreatment Coordinator:

a. The permittee must give at least thirty (30) days advance notice to the Pretreatment Coordinator
b. The notice must include a written certification by the new owner which:
   (i) Received a copy of the existing permit
   (ii) States that the new owner has no immediate intent to change the facility's operations and process
   (iii) Identifies the specific date on which the transfer is to occur
   (iv) Acknowledges full responsibility for complying with the existing permit.

8. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must submit an application for a new permit at least 90 days before the expiration date of this permit.

9. Dilution

The permittee shall not increase the use of potable or process water or, in any way, attempt to dilute an effluent as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this permit.

10. Definitions

a. Daily Maximum—The maximum allowable discharge of pollutant during a calendar day. Where daily maximum limitations are express in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements take that day.
b. Grab Sample—An individual sample collected in less than 15 minutes, without regard for flow or time.
c. Upset—Means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee, excluding such factors as operational error, improperly designed or inadequate treatment facilities, or improper operation and maintenance or lack thereof.
d. Bypass—Means the intentional diversion of wastes from any portion of a treatment facility.

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11. General Prohibitive Standards

The permittee shall comply with all the general prohibitive discharge standards in Title 6 Chapter 4 Section 5 (6-4-5) of Helena City Code.

12. Compliance with Applicable Pretreatment Standards and Requirements

Compliance with this permit does not relieve the permittee from its obligations regarding compliance with any and all applicable local, State and Federal pretreatment standards and requirements including any such standards or requirements that may become effective during the term of this permit.

STANDARD CONDITIONS FOR PERMITS

Section B – OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

The permittee 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 permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes but is not limited to: effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. Duty to Halt or Reduce Activity

Upon reduction of efficiency of operation, or loss or failure of all or part of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control its production or discharges (or both) until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the condition of this permit.

3. Bypass of Treatment Facilities

a. Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury or severe property damage or no feasible alternatives exist.
b. The permittee may allow bypass to occur which does not cause effluent limitations to be exceeded, but only if it is also for essential maintenance to assure efficient operation
c. Notification of bypass:

    (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior written notice, at least ten days before the date of the bypass, to the City of Helena (addresses specified in Part 3.f of this permit).

(ii) Unanticipated bypass. The permittee shall immediately notify the City of Helena and submit a written notice to the POTW within 5 days. This report shall specify:

- A description of the bypass, and its cause, including its duration;
- Whether the bypass has been corrected; and
- The steps being taken or to be taken to reduce, eliminate and prevent a reoccurrence of the bypass.

4. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in accordance with section 405 of the Clean Water Act or Subtitles C and D of the Resource Conservation and Recovery Act.

5. Hazardous Waste Notification Requirements

Industrial users must notify the department, the EPA, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste as set forth in 40 CFR part 261. The written notification shall contain the name of the hazardous substance, the EPA waste number, and the type of discharge. If the industrial user discharges more than one hundred (100) kilograms of a hazardous substance per calendar month to the POTW, the notification shall also contain an identification of the hazardous constituents in the wastewater expected to be discharged during that calendar month, and an estimation of the mass of constituents in the wastewater expected to be discharged during the following twelve (12) months. All notifications shall take place no later than one hundred eighty (180) days after the discharge commences. Notification under this section only needs to be submitted once for each hazardous substance discharged. However, notifications of changed conditions shall be submitted according to the duty to report changed conditions under this chapter.

Section C — MONITORING AND RECORDS

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water or substance. All equipment used for sampling and analysis must be routinely calibrated, inspected and maintained to ensure their accuracy. Monitoring points shall not be changed without notification to and the approval of the City of Helena.

2. Flow Measurements

If flow measurement is required by this permit, the appropriate flow measurement devices and methods consistent with approved scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than 10 percent from true discharge rates throughout the range of expected discharge volumes.

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3. Analytical Methods to Demonstrate Continued Compliance

All sampling and analysis required by this permit shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, otherwise approved by EPA, or as specified in this permit.

~~4. Additional Monitoring by the Permittee~~

~~If the permittee monitors any pollutant more frequently than required by this permit, using test procedures identified in Section C.3, the results of this monitoring shall be included in the permittee's self-monitoring reports.~~

Commented [LE4]: This requirement is already in the MRL permit. See Part 4.c above. I took this section out because it was duplicative.

Part 4.c of the MRL permit states, "If the permittee monitors any pollutant more frequently than required by this permit, using test procedures prescribed in 40 CFR Part 136 or amendments thereto, or otherwise approved by EPA or as specified in this permit, the results of such monitoring shall be included in any calculations of actual daily maximum or monthly average pollutant discharge and results shall be reported in the monthly report submitted to the City of Helena. Such increased monitoring frequency shall also be indicated in the monthly report."

Commented [MC5R4]: ok

~~5.~~4. Inspection and Entry

The permittee shall allow the City of Helena, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
c. Inspect at reasonable times: facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit:
d. Sample or monitor, for the purposes of assuring permit compliance, any substances or parameters at any location; and
e. Inspect any production, manufacturing, fabricating, or storage area where pollutants, regulated under the permit, could originate, be stored, or be discharged to the sewer system.

~~6.~~5. Retention of Records

a. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application of this permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the City of Helena at any time.
b. All records that pertain to matters that are the subject of special orders or any other enforcement or litigation activities brought by the City of Helena shall be retained and preserved by the permittee until all enforcement activities have concluded and all periods of limitations with respect to any and all appeals have expired.

~~7.~~6. Record Contents

Records of sampling and analyses shall include:

a. The date, exact place, time, and methods of sampling or measurements, and sample preservation techniques or procedures;
b. Who performed the sampling or measurements;
c. The date(s) analyses were performed;
d. Who performed the analyses;
e. The analytical techniques or methods used; and
f. The results of such analyses.

8.7. Falsifying Information

Knowingly making any false statement on any report or other document required by this permit or knowingly rendering any monitoring device or method inaccurate is a crime and may result in the imposition of criminal sanctions and/or civil penalties.

Section D— ADDITIONAL REPORTING REQUIREMENTS

1. Planned Changes

The permittee shall give notice to the City of Helena 90 days prior to any facility expansion, production increase or process modifications that may result in new or substantially increased discharges or a change in the nature of the discharge.

2. Anticipated Noncompliance

The permittee shall give advance notice to the City of Helena of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

3. Duty to Provide Information

The permittee shall furnish to the City of Helena, within 5 days any information which the City of Helena my request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also, upon request, furnish to the City of Helena within 5 days copies of any records required to be kept by this permit.

4. Signatory Requirements

All applications, reports, or information submitted to the City of Helena must contain the following certification statement and be signed as required below:

> "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."

~~5. Operating Upsets~~

~~Any permittee that experiences an upset in operations that places the permittee in a temporary state of noncompliance with the provision of either this permit or with Title 6 Chapter 4 of Helena City Code, shall inform the City of Helena within 24 hours of becoming aware of the upset at 406-457-8558 (Supervisor's Office), 406-431-9088 (Pretreatment Coordinator) or 406-431-9082 (Operations). In the event that the permittee is unable to reach the City by telephone, the permittee shall go to the Wastewater Treatment Facility located at 2108 East Custer Avenue to report the upset or bypass.~~

~~A written follow-up report of the upset shall be filed by the permittee with the City of Helena within five days. The report shall specify:~~

~~a. Description of the upset, the cause(s) thereof and the upset's impact on the permittee's compliance status;~~
~~b. Duration of noncompliance, including exact dates and times of noncompliance, and if not corrected, the anticipated time the noncompliance is expected to continue; and~~
~~c. All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset.~~

~~The report must also demonstrate that the treatment facility was being operated in a prudent and workmanlike manner.~~

~~A documented and verified operating upset shall be an affirmative defense to any enforcement action brought against the permittee for violations attributable to the upset event.~~

Commented [LE6]: Affirmative defenses for upsets only apply to categorical pretreatment standards. Please see 6-4-24 in the City ordinance. MRL is not a categorical industrial user so the affirmative defenses for upsets do not apply to MRL.

The MRL permit has notification for slug discharges and spills found in Part 4.e of the permit.

The MRL permit has the bypass requirements in Section B.3 of the permit.

Commented [MC7R6]: ok

~~6.~~5. **Civil and Criminal Liability**

Nothing in this permit shall be construed to relieve the permittee from civil and/or criminal penalties for noncompliance under State or Federal laws or regulations.

~~7.~~6. **Penalties for Violations of Permit Conditions**

Title 6 Chapter 4 Section 21 of Helena City Code provides that any person who violates a permit condition is subject to a civil penalty of up to $300 per day of such violation for the first offense and up to $500 per day for recurrent offenses.

Title 6 Chapter 4 Section 22 of Helena City Code provides that any person who violates permit conditions is subject to criminal penalties of a fine of up to $1,000 per day of violation, or by imprisonment for up to 6 months(s), or both. The permittee may also be subject to sanctions under State and/or Federal law.

~~8.~~7. **Recovery of Costs Incurred**

In addition to civil and criminal liability, the permittee violating any of the provisions of this permit or causing damage to or otherwise inhibiting the City of Helena wastewater, collection, treatment or disposal system shall be liable to the City of Helena for any expense, loss, or damage caused by such violation or discharge. The City of Helena shall bill the permittee for the costs incurred by the City of Helena for any cleaning, repair, or replacement work caused by the violation.

Attachment 1 – Industrial User Monitoring Report Form

Commented [LE8]: Please include the Industrial User Monitoring Report Form as Attachment 1 to the permit.