



Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

March 1, 2006

Ms. Arlene Valliquette
Land/Regulatory Manager
Merit Energy Company
13727 Noel Road, Suite 1500
Dallas, Texas 75240

RE: Notice of Violation

Dear Ms. Valliquette:

Enclosed is a Notice of Violation issued to Merit Energy Company for the failure to obtain an air quality permit prior to continuing operation of the John Deere 6125H diesel generator set at the Jons CBM Facility and the failure to obtain an air quality permit prior to continuing operation of the John Deere 6125H diesel generator set at the Jons/Ruth Swezey Compressor Station. These violations were observed during an inspection of the Baggs area and confirmed in follow-up discussions with Merit Energy Company.

As the Department and this Division consider the failure to comply with air quality permitting requirements to be a serious matter, I am considering recommending the Department refer these violations to the State Attorney General's office requesting a suit be filed in District Court to recover appropriate penalties. If you would like to discuss settlement of this Notice of Violation prior to referral to the Attorney General's office, please contact Mr. Robert Gill, Air Quality Compliance Program Manager, at 307-777-3774 no later than ten (10) days after receipt of this letter.

Should you have any questions or comments regarding this matter, please feel free to contact me or Mr. Robert Gill.

Sincerely,

David A. Finley
Administrator
Air Quality Division

cc: Robert Gill
Bernie Dailey
Chris Hanify
Nancy Vehr



IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO MERIT ENERGY)
COMPANY, MS. ARLENE VALLIQUETTE,)
LAND/REGULATORY MANAGER, 13727 NOEL)
ROAD, SUITE 1500, DALLAS, TEXAS 75240)

DOCKET NO.

3854-06

NOTICE OF VIOLATION

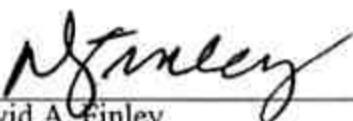
NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found Merit Energy Company (Merit) to be in violation of W.S. 35-11-801 of the Wyoming Environmental Quality Act and Chapter 6, Section 2 of the Wyoming Air Quality Standards in the construction and operation of the John Deere 6125H diesel generator sets at the Jons CBM Facility and Jons/Ruth Swezey Compressor Station located in Carbon County, Wyoming.
2. W.S. 35-11-801(c) states, "A permit to construct is required before the construction or modification of any industrial facility capable of causing or increasing air or water pollution in excess of standards established by the department is commenced."
3. Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations prescribes the applicability and procedures for issuing permits to sources under Wyoming's construction and modification permitting program.
4. Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations states, "Any person who plans to construct any new facility or source, modify any existing facility or source, or to engage in the use of which may cause the issuance of or an increase in the issuance of air contaminants into the air of this state shall obtain a construction permit from the State of Wyoming, Department of Environmental Quality, before any actual work is begun on the facility."
5. On January 5, 2004, Merit was issued permit application waivers AP-1368 and AP-1369 for John Deere 6125H diesel generator sets at the Jons CBM Facility and the Jons/Ruth Swezey Compressor Station, respectively. Both of these permit application waivers allowed for operation of the generator sets for six months after initial startup. In a March 8, 2005 letter, Merit reported that initial startup of the John Deere 6125H generator sets at the Jons CBM Facility and the Jons/Ruth Swezey Compressor Station occurred on May 6, 2004.
6. On February 6, 2006, Mr. Chris Hanify, Air Quality Division Inspector, conducted an inspection of the Baggs area including the Jons CBM Facility and Jons/Ruth Swezey Compressor Station in response to a citizen complaint. During the inspection of the Jons CBM Facility and the Jons/Ruth Swezey Compressor Station, Mr. Hanify observed that the John Deere 6125H generator sets at each of these facilities were operating. Mr. Hanify made a follow-up call to Merit regarding the operating status of these generator sets and confirmed that the generator sets were still operating without valid air quality permits. In a February 23, 2006 letter, Merit informed the Air Quality Division that the generator sets in question were shutdown as of February 22, 2006.
7. Said violations consist of: 1) the failure to obtain an air quality permit prior to continuing operation of the John Deere 6125H diesel generator set at the Jons CBM Facility in violation of W.S. 35-11-801 of the Wyoming Environmental Quality Act and Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations and 2) the failure to obtain an air quality permit prior to continuing operation of the John Deere 6125H diesel generator set at the Jons/Ruth Swezey Compressor Station in violation of W.S. 35-11-801 of the Wyoming Environmental Quality Act and Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations.
8. Under W.S. 35-11-901(a), any person who violates any provision of Article 2 of [the Environmental Quality Act] ... or any rule, regulation, standard or permit adopted pursuant to those

provisions, or who violates any determination or order of the council pursuant to Article 2 of [the Environmental Quality Act] ... is subject to a penalty not to exceed ten thousand dollars (\$10,000.00) for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction.

9. This notice is being sent to you pursuant to W.S. 35-11-701(c), which requires that, in any case of failure to correct or remedy an alleged violation, the Director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.

DATED this 8th day of MARCH, 2006.



David A. Finley
Administrator
Air Quality Division



John V. Corra
Director
Department of Environmental Quality

Please direct all inquiries to David A. Finley, Administrator, Division of Air Quality, Department of Environmental Quality, Herschler Building, 4th Floor, 122 W. 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307/777-7393)