



# 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

August 9, 2006

Mr. Tom Thorsen  
President  
Black Hills Bentonite, LLC  
P.O. Box 9  
Mills, WY 82633

RE: Notice of Violation

Dear Mr. Thorsen:

Enclosed you will find a Notice of Violation (NOV) issued to the Black Hills Bentonite, LLC by the Department of Environmental Quality, Air Quality Division, for the opacity of visible emissions from the rotary dryer at the Worland Plant in excess of the 10% opacity allowed by permit MD-902. This opacity exceedance was observed by Mr. David Reid on July 11, 2006.

As the Department and this Division consider the failure to comply with air quality permit conditions to be a serious matter, I am considering recommending the Department refer this violation 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  
Greg Meeker  
Nancy Vehr  
Keith Guille



## NOTICE OF VIOLATION

### **NOTICE IS HEREBY GIVEN THAT:**

1. The Department of Environmental Quality, Division of Air Quality, has found Black Hill Bentonite, LLC to be in violation of permit MD-902 issued in accordance with W.S. 35-11-801 of the Wyoming Environmental Quality Act and Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations in the operation of the rotary dryer at the Worland Plant located in Washakie County, Wyoming.

2. W.S. 35-11-801(a) states, "In granting permits, the Director may impose such conditions as may be necessary to accomplish the purpose of this act which are not inconsistent with the existing rules, regulations and standards."

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. Permit MD-902 was issued to Black Hills Bentonite, LLC on July 30, 2003. Condition #11 of permit MD-902 states: "That the rotary dryer shall not exceed 10% opacity as determined by 40 CFR, Part 60, Appendix A, Method 9."

5. On July 11, 2006, Mr. David Reid, Air Quality Division Inspector, observed significant visible emissions from the rotary dryer stack. Mr. Reid conducted a Method 9 opacity observation with the resultant opacity of 40.2%, in excess of the 10% opacity allowed by permit MD-902.

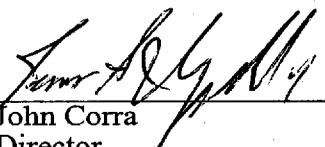
6. Said violation consists of the opacity of visible emissions from the rotary dryer in excess of the 10% opacity allowed by permit MD-902.

7. 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.

8. This notice is being sent to you pursuant to W.S. 35-11-701(c), which requires that, in any case of the 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 29 day of August, 2006.

  
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David A. Finley  
Administrator  
Air Quality Division

  
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John 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.)