



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

September 24, 2007

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 telescopic chute associated with the 1,000 ton crushed and dried bentonite stockpile at the Mills Complex in excess of the 20% opacity allowed by permit 3-1-176. This opacity exceedance was observed by Mr. Chris Hanify on September 5, 2007.

As the Department and this Division consider the failure to comply with permit requirements to be a serious matter, I am 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 issue prior to action on the referral by the Attorney General's office, please contact Ms. Karen Godman, Air Quality Compliance Program Principal, at 307-777-8601 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 Ms. Karen Godman.

Sincerely,

David A. Finley
Administrator
Air Quality Division

cc: Robert Gill
Chris Hanify
Nancy Vehr
Keith Guille



**BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

**IN THE MATTER OF THE NOTICE OF VIOLATION)
ISSUED TO BLACK HILLS BENTONITE, LLC,)
MR. TOM THORSON, PRESIDENT,)
P.O. BOX 9, MILLS, WYOMING 82644)**

DOCKET NO. 4151-07

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found Black Hills Bentonite, LLC to be in violation of permit 3-1-176 issued in accordance with W.S. 35-11-801 of the Wyoming Environmental Quality Act and Chapter 6, Section 3 of the Wyoming Air Quality Standards and Regulations in the operation of the telescopic chute associated with the 1,000 ton crushed and dried bentonite stockpile at the Mills Complex located in Natrona 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 3 of the Wyoming Air Quality Standards and Regulations prescribes the applicability and procedures for issuing permits to sources under Wyoming's operating permit program.

4. Permit 3-1-176 was issued to Black Hills Bentonite, LLC on April 24, 2007. Condition F2(b) of permit 3-1-176 states: "The telescopic chute associated with the outdoor 1,000 ton crushed and dried bentonite stockpile shall be limited to an opacity of 20%."

5. On August 14, 2007, Mr. Chris Hanify, Air Quality Division Engineer, observed significant visible emissions from the telescopic chute associated with the outdoor 1,000 ton crushed and dried bentonite stockpile. Mr. Hanify conducted a Method 9 opacity observation with the resultant opacity of 89%, in excess of the 20% opacity allowed by permit 3-1-176.

6. Said violation consists of the opacity of visible emissions from the telescopic chute associated with the outdoor 1,000 ton crushed and dried bentonite stockpile in excess of the 20% opacity allowed by permit 3-1-176.

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.

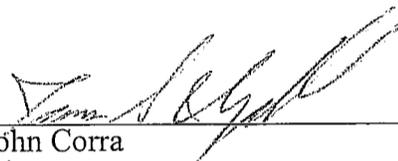
8. This notice is being sent to you pursuant to W.S. 35-11-701(c), which requires that, in any case of the failure to correct or remedy an alleged violation, the Director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.

Black Hills Bentonite, LLC
Notice of Violation
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DATED this 24th day of September, 2007.



David A. Finley
Administrator
Air Quality Division



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, 2nd Floor, 122 W. 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307/777-7393.)