



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

May 28, 2009

Mr. Ron McMurry
Vice President
McMurry Ready Mix Company
PO BOX 2488
Casper, WY 82604

RE: Notice of Violation

Dear Mr. McMurry:

Enclosed is a Notice of Violation issued to McMurry Ready Mix Company for the failure to: 1) apply at minimum, two (2) applications of chemical dust suppressant annually in violation of condition 9 of permit CT-4284, 2) maintain and provide water records to the Division after August 2008 in violation of condition 10 of permit CT-4284 and 3) provide relocation notifications for equipment now located in the WYUTE Pit in violation of Chapter 6, Section 2(v)(b)(ii) of the Wyoming Air Quality Standards and Regulations.

As the Department and this Division consider the failure to comply with permit and regulatory requirements to be a serious matter, I am considering recommending that 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 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: Bob Gill
Chris Hanify
Nancy Vehr
Keith Guille

Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH (307) 777-7937 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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**BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

**IN THE MATTER OF THE NOTICE OF VIOLATION
ISSUED TO MCMURRY READY MIX COMPANY,
MR. RON MCMURRY,
VICE PRESIDENT,
PO BOX 2488
CASPER, WYOMING 82602**

DOCKET NO. 4503-09

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found McMurry Ready Mix Company to be in violation of permit CT-4284 issued in accordance with W.S. 35-11-801(a) of the Wyoming Environmental Quality Act and Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations in the operation of the WYUTE Pit located in Carbon 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 CT-4284 was issued to McMurry Ready Mix Company May 22, 2006. Condition 9 states:

"The haul road extending from the pit to the frontage road off I-80 shall be treated with water and/or chemical dust suppressants on a schedule sufficient to control fugitive dust from vehicular traffic and wind erosion. At a minimum, two (2) applications of chemical dust suppressant shall be applied annually in accordance with the manufacturer's recommendations. The chemical dust suppressant shall be maintained continuously to the extent that it remains a viable control measure, which may require additional applications. All unpaved portions of haul roads shall receive an initial treatment of chemical dust suppressant prior to any hauling activities at the beginning of each construction season."

5. On March 6, 2009 the Division received a complaint regarding excessive fugitive dust emissions at the WYUTE Pit, located in Carbon County, Wyoming. In response, Mr. Chris Hanify, District 2 Engineer, conducted an inspection on March 10, 2009. During the inspection and record review, Mr. Hanify noted that records showed that only one (1) application of the dust suppressant, Magnesium Chloride (MgCl₂) for the year 2008 and was applied in August 2008. This is a violation of condition 9 of permit CT-4284.

6. Permit CT-4284 was issued to McMurry Ready Mix Company May 22, 2006. Condition 10 states:

"McMurry Ready Mix Company shall maintain a log book listing the dates, amount of dust suppressant applied, areas treated, water usage and operating hours of the water truck. The log shall be maintained on site for a period of at least five (5) years and shall be made available to the Division upon request."

7. On March 6, 2009 the Division received a complaint regarding excessive fugitive dust emissions at the WYUTE Pit, located in Carbon County, Wyoming. In response, Mr. Chris Hanify, District 2 Engineer, conducted an inspection on March 10, 2009. During the inspection and record review, Mr. Hanify noted no water records were available after August 2008. This is a violation of condition 10 of permit CT-4284.

8. Chapter 6, Section 2(v)(b)(ii) of the Wyoming Air Quality Standards and Regulations states:

“For portable sources or facilities, the Division may authorize the owner or operator to utilize a self-issuance” operating permit system for the new locations which are not new sources or facilities... The Division shall provide to authorized owners or operators of portable sources, forms upon which the self-issued permits are to be recorded. The owner or operator shall, at a minimum provide, as appropriate the permit number previously issued to the portable source or facility, the new location for which the permit is issued, the duration of operation at the new location, the production rate at the new location and the production rate at the new location in addition to any other information that the Administrator may require. Such permit shall be executed and a copy provided to the Air Quality Division prior to operation at the new location.”

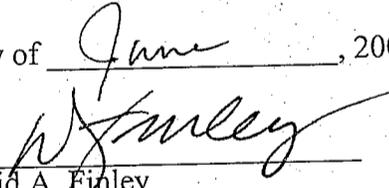
9. On March 6, 2009 the Division received a complaint regarding excessive fugitive dust emissions at the WYUTE Pit, located in Carbon County, Wyoming. In response, Mr. Chris Hanify, District 2 Engineer, conducted an inspection on March 10, 2009. During the inspection and record review, Mr. Hanify observed air separators at the WYUTE Pit that were not noted in any relocate permits. It was found that initial permitting of the air separators had been conducted, but McMurry had not been diligent in providing relocation notifications for equipment now located in the WYUTE Pit. This is a violation of Chapter 6, Section 2(v)(b)(ii) of the Wyoming Air Quality Standards and Regulations.

10. Said violations consist of failure to: 1) apply at minimum, two (2) applications of chemical dust suppressant annually in violation of condition 9 of permit CT-4284, 2) maintain and provide water records to the Division after August 2008 in violation of condition 10 of permit CT-4284 and 3) provide relocation notifications for equipment now located in the WYUTE Pit in violation of Chapter 6, Section 2(v)(b)(ii) of the Wyoming Air Quality Standards and Regulations.

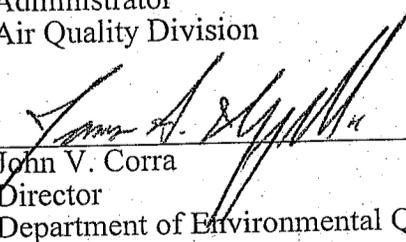
11. Under W.S. 35-11-901(a), any person who violates any provision of Article 2 of [the Environmental Quality Act] ... or any rule, regulation, standard or permit adopted pursuant to those provisions, or who violates any determination or order of the council pursuant to Article 2 of [the Environmental 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.

12. 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 3rd day of June, 2009.



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