



# 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 3, 2009

Mr. Shawn Hullinger  
President  
BCN Construction, Inc.  
P.O. BOX 1326  
Rawlins, WY 82301

RE: Notice of Violation

Dear Mr. Hullinger:

Enclosed you will find a Notice of Violation (NOV) issued to BCN Construction, Inc. by the Department of Environmental Quality, Air Quality Division, for the failure to obtain an air quality permit prior to commencing construction and operation of the Concrete Batch Plant located in Carbon County, Wyoming 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. This violation was observed during a complaint inspection conducted on June 25, 2009 and subsequent communication between the Division and BCN Construction, Inc.

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 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 Ms. Karen J. 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 BCN CONSTRUCTION, INC.  
MR. SHAWN HULLINGER, PRESIDENT,  
P.O. BOX 1326,  
RAWLINS, WY 82301**

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**DOCKET NO. 4544-09**

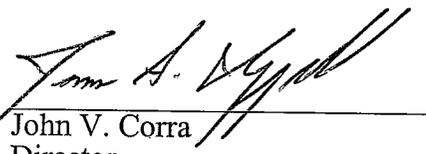
**NOTICE OF VIOLATION**

**NOTICE IS HEREBY GIVEN THAT:**

1. The Department of Environmental Quality, Division of Air Quality, has found BCN Construction, Inc. 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 and Regulations in the construction and operation of the Concrete Batch Plant 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 June 25, 2009, Mr. Jeff Hancock conducted an inspection of the Concrete Batch Plant in response to a complaint. Upon inspection and subsequent communication between the Division and BCN Construction, Inc. it was discovered that the Concrete Batch Plant had operated and had not been permitted.
6. Said violation consists of the failure to obtain an air quality permit prior to commencing construction and operation of the Concrete Batch Plant 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.
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 20<sup>th</sup> day of August, 2009.

  
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David A. Finley  
Administrator  
Air Quality Division

  
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John V. Corra  
Director  
Department of Environmental Quality

Please direct all inquiries to David 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.)