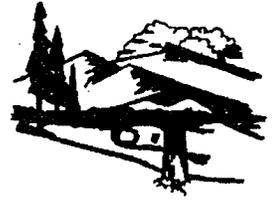




Department of Environmental Quality



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 29, 2009

Mr. Thomas A. Thorson, President
Black Hills Bentonite, LLC
P.O. Box 9
Mills, WY 82644

Re: Notice of Violation

Dear Mr. Thorson:

Enclosed you will find a Notice of Violation (NOV) issued to Black Hills Bentonite, LLC for exceeding the permitted opacity limit of 10% for the 1-M (Mills Roatry Dryer) at the Mills Complex located in Natrona County, Wyoming. This is a direct violation of condition (F3) of permit 3-1-176.

As the Department and this Division consider the failure to comply with air quality regulatory and permit requirements to be a serious matter and I am 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 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. 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. THOMAS A. THORSON, PRESIDENT,)
PO BOX 9,)
MILLS, WY 82644)**

DOCKET NO. 4573-09

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 Mills Complex located in Natrona County, Wyoming.

2. W.S. 35-11-801 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 major sources under Wyoming's operating permitting program.

4. Permit 3-1-176 was issued to the Black Hills Bentonite, LLC on or about April 24, 2007. Condition F3 of permit 3-1-176 limits the opacity of visible emissions from the Mills Roatry Dryer Baghouse (1-M) to 10 percent. Condition P60-UUU3 of permit 3-1-176 requires that Black Hills Bentonite, LLC install, calibrate, maintain and operate a Continuous Opacity Monitoring Systems (COMs) on each dryer, to measure and record opacity of emissions discharged into the atmosphere from unit 1-M. In addition condition P60-UUU3 of permit 3-1-176 requires that the COMs meet all other requirements of WAQSR Chapter 5, Section 2 and 40 CFR Part 60, Subpart UUU and except for system breakdowns, repairs, calibration checks and zero and span adjustments all COMs shall be in continuous operation.

5. The Air Quality Division's review of Black Hills Bentonite's excess emission reports showed the following. The 1-M noncompliance rate with the opacity limit was 13.2% during the second quarter of 2009, which is a violation of condition F3 of permit 3-1-176.

6. Said violations consist of the failure to comply with the 1-M (Mills Roatry Dryer) opacity limit of 10% as required by condition F3 of 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.

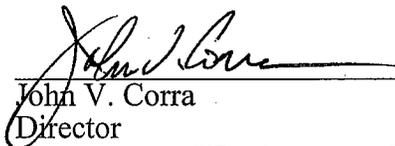
8. This notice is being sent to you pursuant to W.S. 35-11-701(c), which requires that, in any case of failure to correct or remedy an alleged violation, the Director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.

Black Hills Bentonite, LLC
Notice of Violation
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DATED this 5th day of October, 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)