



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

February 8, 2010

Mr. Gary Bertsch
Vice President
McGarvin-Moberly Construction Co.
PO BOX 1166
Worland, WY 82401

RE: Notice of Violation

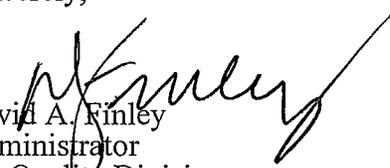
Dear Mr. Bertsch:

Enclosed is a Notice of Violation issued to McGarvin-Moberly Construction Co. for the failure to comply with the 20% opacity limit for the Buzzer Screen in violation of condition 7 of permit CT-1297 at the McGarvin-Moberly Asphalt Plant located in Carbon County, Wyoming.

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



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

IN THE MATTER OF THE NOTICE OF VIOLATION)
ISSUED TO MCGARVIN-MOBERLY CONSTRUCTION,)
MR. GARY BERTSCH, VICE PRESIDENT,) **DOCKET NO. 4634-10**
PO BOX 1166, WORLAND, WY 82401)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found McGarvin-Moberly Construction Co. to be in violation of permit CT-1297 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 McGarvin-Moberly Asphalt Plant located Carbon 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 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-1297 was issued to McGarvin-Moberly Construction Co. on May 6, 1997. Condition 7 of this permit limits visible emissions from all sources associated with the asphalt plant to 20% opacity.

5. On August 21, 2009, Air Quality Engineer, Mr. Chris Hanify noted excessive fugitive dust from the McGarvin-Moberly Asphalt Plant feed train located approximately four miles north of Rawlins along WYO789/US287, in Carbon County, Wyoming. In response to this observation a site visit was conducted and an opacity reading of 53% was measured at the Buzzer Screen. The reading was in excess of the 20% opacity reading prescribed by permit CT-1297.

6. Said violation consists of exceeding the opacity limit of 20% for the Buzzer Screen in violation of condition 7 of permit CT-1297.

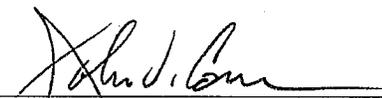
7. Under W.S. 35-11-901(a), any person who violates any provision of Article 2 of [the Environmental Quality Act] ... or any rule, regulation, standard or permit adopted pursuant to those provisions, or who violates any determination or order of the council pursuant to Article 2 of [the Environmental 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 10 day of Feb, 2010.



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.)