



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

April 23, 2010

Mr. Dave Bren
Fisher Sand & Gravel
PO BOX 1034
Dickinson, ND 58602-1034

RE: Notice of Violation

Dear Mr. Bren:

Enclosed is a Notice of Violation issued to Fisher Sand & Gravel Company for the failure to comply with the 20% opacity limit for the baghouse exhaust in violation of condition 6 of permit MD-7818 at the Hot-Mix Plant located in Converse 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 referral to 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,

Lori N. Bocchino
Acting 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 FISHER SAND & GRAVEL COMPANY,)
MR. DAVE BREN,) **DOCKET NO. 4680-10**
PO BOX 1034, DICKINSON, ND 58602-1034)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found Fisher Sand & Gravel Company to be in violation of permit MD-7818 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 Hot-Mix Plant located Converse 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 MD-7818 was issued to Fisher Sand & Gravel Company on September 3, 2008. Condition 6 of this permit limits visible emissions from baghouse exhaust to 20% opacity.

5. On September 15, 2009, Air Quality Engineer, Mr. Chris Hanify noted high opacity from the Hot-Mix Plant located in Converse County, Wyoming. In response to this observation a site visit was conducted and a Method 9 opacity reading of 40% was measured. The reading was in excess of the 20% opacity allowed by permit MD-7818.

6. Said violation consists of exceeding the opacity limit of 20% for the baghouse exhaust in violation of condition 6 of permit MD-7818.

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 26 day of April, 2010.



Lori N. Bocchino
Acting Administrator
Air Quality Division



John W. Corra
Director
Department of Environmental Quality

Please direct all inquiries to the Administrator, Division of Air Quality, Department of Environmental Quality, Herschler Building, 2nd Floor, 122 W. 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307/777-7393.)