



Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Matthew H. Mead, Governor

John Corra, Director

September 14, 2011

Mr. Tom Thorsen, President
Black Hills Bentonite L.L.C.
P.O. Box 9
Mills, WY 82644

Re: Notice of Violation

Dear Mr. Thorsen:

Enclosed you will find a Notice of Violation (NOV) issued to Black Hills Bentonite, L.L.C. by the Department of Environmental Quality, Air Quality Division for failing to: 1) conduct initial performance tests of the Screen Baghouse and Hammer Mill & Tank Baghouse, 2) conduct the correct required testing of the dryer dust collector, 3) construct the three sided enclosure for granular storage and 4) obtain a permit for the Carbon Dust Collector Baghouse prior to construction and operation.

As the Department and this Division consider the failure to comply with permit requirements to be a serious matter, I am 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 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 Karen Godman.

Sincerely,

Seven A. Dietrich
Administrator
Air Quality Division

cc: Nancy Vehr
Bob Gill
Tanner Shatto
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,) DOCKET NO. 4898-11
MR. THOMAS A. THORSON, PRESIDENT,)
PO BOX 9,)
MILLS, WY 82644)**

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 permits CT-2408 and MD-1583 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 Thornton Plant located in Weston 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-1583 was issued to Black Hills Bentonite, LLC on May 30, 2007. Condition 8 of permit MD-1583 requires that initial performance tests be conducted of the Screen Baghouse and Hammer Mill & Tank Baghouse.

5. On August 15, 2011, Mr. Tanner Shatto, Air Quality Division Inspector, conducted an inspection and record review of the Thornton Plant and found that initial performance tests were not conducted of the Screen Baghouse and Hammer Mill & Tank Baghouse.

6. Permit CT-2408 was issued to Black Hills Bentonite, LLC on June 26, 2001. Condition #12 of permit CT-2408 requires visible emissions from the dryer dust collector shall not exceed 10 percent opacity. Compliance with the 10% opacity standard shall be determined by either (i) installation and operation of a continuous opacity monitoring system (COMs) or (ii) a certified emissions observer... a certified visible emissions observer shall measure and record three 6-minute averages of the opacity each day of operation in accordance with 40 CFR, Part 60, Appendix A, Method 9.

7. On August 15, 2011, Mr. Tanner Shatto, Air Quality Division Inspector, conducted an inspection and record review of the Thornton Plant and noted that the facility had been conducting daily see/no see observations on the dryer baghouse, instead of the required daily Method 9 opacity testing.

8. Permit MD-1583 incorporates all commitments within the Permit Application through Condition 2, which states:

"That all commitments and descriptions set forth in the application for this permit, unless superseded by a specific condition of this permit, are incorporated herein by this reference and are enforceable as conditions of this permit."

9. Black Hills Bentonite, LLC submitted the Permit Application and the Division's review process for this permit outlined the purpose of application. Within the permitting process, Black

Hills Bentonite, LLC asserted that granular product would be conveyed directly to a three sided enclosure.

10. During permitting, the Division considered the three sided enclosure when assessing particulate emissions from stockpiled granular product. During the inspection August 15, 2011, Mr. Tanner Shatto, Air Quality Division Inspector, noted no three sided bunker had been constructed. Therefore, the stockpiled material emissions were not controlled as considered by permit MD-1583.

11. 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."

12. On August 15, 2011, Mr. Tanner Shatto, Air Quality Division Inspector, conducted an inspection of the Thornton Plant and discovered an extra baghouse, known as the Carbon Dust Collector Baghouse. Upon inspection and subsequent communication between the Division and Black Hills Bentonite it was discovered that the Carbon Dust Collector Baghouse had operated and had not been permitted.

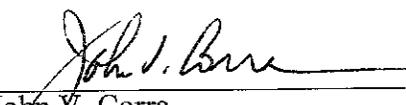
13. Said violations consist of failing to: 1) conduct initial performance tests of the Screen Baghouse and Hammer Mill & Tank Baghouse, 2) conduct the correct required testing of the dryer dust collector, 3) construct the three sided enclosure for granular storage and 4) obtain a permit for the Carbon Dust Collector Baghouse prior to construction and operation.

14. 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.

15. 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.

DATED this 20th day of SEPTEMBER, 2011.


Steven A. Dietrich
Administrator
Air Quality Division


John W. Corra
Director
Department of Environmental Quality

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