



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

November 21, 2011

Mr. David Fertig
Knife River
P.O. BOX 730
Casper, WY 82602

RE: Notice of Violation

Dear Mr. Fertig:

Enclosed you will find a Notice of Violation (NOV) issued to Knife River by the Department of Environmental Quality, Air Quality Division, for: 1) exceeding the opacity limit of 10% for both the JCI Screen and transfer point to the conveyor below the Nordberg 300 Cone Crusher in violation of 40 CFR Part 60, Subpart OOO and 2) failing to obtain a permit for the Nordberg 300 Cone Crusher, JCI Screen and Caterpillar 3412 diesel generator in violation of Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations at the Madsen Site. These violations were observed by Mr. Chris Hanify on October 19, 2011.

As the Department and this Division consider the failure to comply with air quality regulations 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 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,

Steven A. Dietrich
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 KNIFE RIVER,)
MR. DAVID FERTIG, VICE PRESIDENT) DOCKET NO. 4923-11
P.O. BOX 730,)
CASPER, WY 82602)**

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found Knife River to be in violation of W.S. 35-11-201 of the Wyoming Environmental Quality Act and Chapter 5, Section 2 of the Wyoming Air Quality Standards and Regulations (WAQSR) and 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 Madsen Site located Natrona County, Wyoming.

2. W.S. 35-11-201 of the Environmental Quality Act states, "No person shall cause, threaten or allow the discharge or emission of any air contaminant in any form so as to cause pollution which violates rules, regulations and standards adopted by the council."

3. Chapter 5, Section 2 of the Wyoming Air Quality Standards and Regulations includes the general provisions for and adopts certain New Source Performance Standards (NSPS) for New Stationary Sources by reference including 40 CFR Part 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants (§60.670 through §60.676). The Nordberg 300 Cone Crusher and JCI Screen equipment observed at the Madsen Site are affected facilities under NSPS Subpart OOO and are subject to the general provision requirements of Chapter 5, Section 2 and the requirements of NSPS Subpart OOO.

4. 40 CFR Part 60, Subpart OOO, paragraph 60.672 (b) requires that affected facilities must meet the fugitive emission limits and compliance requirements in Table 3. Table 3 requires affected facilities meet fugitive emission limit of 10% opacity for screening operations and transfer points on belt conveyors.

5. On October 19, 2011, Air Quality Engineer, Mr. Chris Hanify conducted a follow-up inspection of the Madsen Site located in Natrona County, Wyoming. During this inspection, an opacity reading of 33.5% was recorded above the JCI screen and north of the two feed conveyors and another opacity reading of 40% was recorded at the transfer point to the conveyor below the Nordberg 300 Cone Crusher. Both opacity readings are in excess of the 10% opacity limit required by 40 CFR Part 60, Subpart OOO.

6. 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."

7. 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.

8. 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."

9. On October 19, 2011, Air Quality Engineer, Mr. Chris Hanify conducted a follow-up inspection of the Madsen Site located in Natrona County, Wyoming. Upon inspection and subsequent communication between the Division and Knife River it was discovered that the Nordberg 300 Cone Crusher, JCI Screen and Caterpillar 3412 diesel generator located onsite had not been permitted. These are violations of the requirement to obtain a construction/modification permit by Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations.

10. Said violations consist of: 1) exceeding the opacity limit of 10% for both the JCI Screen and transfer point to the conveyor below the Nordberg 300 Cone Crusher in violation of 40 CFR Part 60, Subpart OOO and 2) failing to obtain a permit for the Nordberg 300 Cone Crusher, JCI Screen and Caterpillar 3412 diesel generator in violation of Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations.

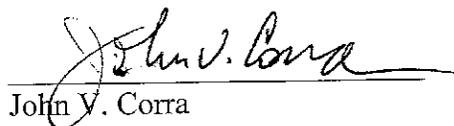
11. Under W.S. 35-11-901(a), any person who violates any provision of Article 2 of [the Environmental Quality Act] ... or any rule, regulation, standard or permit adopted pursuant to those provisions, or who violates any determination or order of the council pursuant to Article 2 of [the Environmental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

12. 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 21ST day of NOVEMBER, 2011.



Steven A. Dietrich
Administrator
Air Quality Division



John V. 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.)