



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

Todd Parfitt, Director

February 4, 2013

Mr. Mark Lux
Director Environment & Safety
Black Hills Corporation
PO Box 1400
Rapid City, SD 57709-1400

RE: Notice of Violation

Dear Mr. Lux:

Enclosed you will find a Notice of Violation (NOV) issued to Black Hills Corporation by the Department of Environmental Quality, Air Quality Division, for failing to comply with the permitted limits for particulate emissions at the Wygen III facility located in Campbell County, Wyoming. This is a violation of permit CT-4517A. This violation was noted by Mr. Tanner Shatto during review of a stack test which was conducted September 26, 2012.

As the Department and this Division consider the failure to comply with air quality permit conditions 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 Notice of Violation prior to referral to the Attorney General's office, please contact Ms. Karen Godman, Air Quality Compliance Program Principal, at 307-777-3774 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
Tanner Shatto
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 CORPOARTION) DOCKET NO. 5124-13
MR. MARK LUX)
PO BOX 1400)
RAPID CITY, SD 57709-1400)**

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found Black Hills Corporation to be in violation of permit CT-4517A 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 for the Wygen III facility located in Campbell County, Wyoming.
2. W.S. 35-11-801(a) 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-4517A was issued to Black Hills Corporation on November 24, 2008. Condition 8 limits particulate emissions from the ES3-01 PC boiler to 0.012 lb/MMBtu (pounds per million Btu) filterable and 15.6 lb/hr (pounds per hour).
5. Stack testing was conducted September 26, 2012, for the Wygen III facility to assure compliance with the particulate limits of 0.012 lb/MMBtu filterable and 15.6 lb/hr. Reports indicate that the ES3-01 PC boiler particulate test results were in excess of permitted lb/MMBtu and lb/hr; the ES3-01 PC boiler tested at 0.016 lb/MMBtu and (133% of 0.012 lb/MMBtu) and 18.2 lb/hr (117% of 15.6 lb/hr). Failure to meet emission limits for particulate constitutes a violation of condition 8 of permit CT-4517A.
6. Said violation consists of exceeding the permitted particulate limits at the Wygen III facility, which is a violation of condition 8 of permit CT-4517A.
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.

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Notice of Violation
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DATED this 4th day of FEBRUARY, 2013.



Steven A. Dietrich
Administrator
Air Quality Division



Todd Parfitt
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.)