



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 13, 2013

Mr. Jerry W. Sherrell
Mack Energy
PO Box 960
Artesia, NM 88211-0960

RE: Notice of Violation

Dear Mr. Sherrell:

Enclosed you will find a Notice of Violation (NOV) issued to Mack Energy by the Department of Environmental Quality, Air Quality Division, for failing to obtain a construction permit prior to constructing and operating the production site at the Dilts 7-1H facility located in Converse County, Wyoming. On August 28, 2012, Mr. Chris Hanify, Air Quality Division Engineer/Inspector, observed an unpermitted generator engine present at the facility. On November 20, 2012, Mr. Hanify observed an unpermitted Waukesha F1197GU engine present at the facility and noted that the well at the facility had started producing in April 2012. By failing to permit the two engines and the Dilts 7-1H production facility, Mack Energy has not followed the Oil and Gas Production Facilities Chapter 6, Section 2 Permitting Guidance and is in direct violation of the construction permitting requirements of Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations.

As the Department and this Division consider the failure to comply with air quality permitting requirements 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 MACK ENERGY) DOCKET NO. 5121-13
MR. JERRY W. SHERRELL)
PO BOX 960)
ARTESIA, NM 88211-0960)**

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found Mack Energy to be in violation of W.S. 35-11-801 of the Wyoming Environmental Quality Act and Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations (WAQSR) in the construction and operation of the Dilts 7-1H production facility located in Converse County, Wyoming.

2. 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."

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. Chapter 6, Section 2(a)(i) of the WAQSR 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."

5. The Air Quality Division issued the Chapter 6, Section 2 permitting guidance for Oil and Gas Production Facilities in June 1997 with revisions in November 1998, January 2000, August 2001, August 2007 and March 2010, and a revision related to the Jonah/Pinedale area operations dated July 2004. This guidance was developed to familiarize oil and gas production facilities with the Wyoming air quality regulations and to provide guidance to these facilities on what the Air Quality Division would accept as meeting the intent of Wyoming's regulatory requirement to obtain a construction permit prior to the construction or operation of new air emission sources (Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations). Companies may follow the Oil and Gas Production Facilities Chapter 6, Section 2 Permitting Guidance, or must, prior to construction of a new air emission source, obtain a Chapter 6, Section 2 permit. A permit application must be filed within 90 days after the first date of production.

6. On August 28, 2012, Mr. Chris Hanify, Air Quality Division Engineer/Inspector, observed an unpermitted generator engine present at the facility. On November 20, 2012, Mr. Hanify observed an unpermitted Waukesha F1197GU compressor engine present at the facility and noted that the well at the facility had started producing in April 2012. In accordance with the March 2010 Oil and Gas Production Facilities Permitting Guidance, the two engines and the production facility should have been permitted. By failing to permit the two engines and the Dilts 7-1H production facility, Mack Energy has not followed the Oil and Gas Production Facilities Chapter 6, Section 2 Permitting Guidance and is in direct violation of the construction permitting requirements of Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations.

7. Said violation consists of the failure to obtain a construction permit prior to constructing and operating the Dilts 7-1H production facility in violation of W.S. 35-11-801(c) of the Wyoming Environmental Quality Act and Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations.

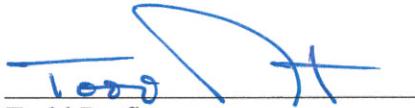
8. Under W.S. 35-11-901(a), any person who violates any provision of Article 2 of [the Environmental Quality Act] ... or any rule, regulation, standard or permit adopted pursuant to those provisions, or who violates any determination or order of the council pursuant to Article 2 of [the Environmental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

9. 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 13th 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)