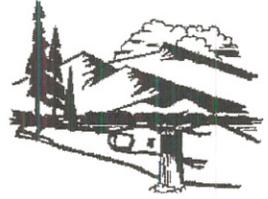




# Department of Environmental Quality

*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

June 5, 2013

Mr. Shawn Smith  
PacifiCorp  
PO Box 191  
Kemmerer, WY 83101

RE: Notice of Violation

Dear Mr. Smith:

Enclosed you will find a Notice of Violation (NOV) issued to PacifiCorp by the Department of Environmental Quality, Air Quality Division, for the failure to minimize fugitive dust emissions from the Naughton Plant and adhere to the Fugitive Dust Compliance Plan in violation of W.S. §35-11-201 of the Wyoming Environmental Quality Act, Chapter 3, Section 2(f) of the Wyoming Air Quality Standards and Regulations.

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: Karen Godman  
Nancy Vehr  
Keith Guille  
Greg Meeker  
Cara Kesler



**BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING**

**IN THE MATTER OF THE NOTICE OF VIOLATION )  
ISSUED TO PACIFICORP ) DOCKET NO. 5170-13  
MR. SHAWN SMITH )  
PO BOX 191 )  
KEMMERER, WY 83101 )**

**NOTICE OF VIOLATION**

**NOTICE IS HEREBY GIVEN THAT:**

1. The Department of Environmental Quality, Division of Air Quality, has found PacifiCorp to be in violation of W.S. §35-11-201 of the Wyoming Environmental Quality Act, Chapter 3, Section 2(f) of the Wyoming Air Quality Standards and Regulations (WAQSR) and Division letter January 14, 2002 issued in the operation of the Naughton Plant located in Lincoln County, Wyoming.

2. W.S. §35-11-201 of the Wyoming 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 3, Section 2(f)(i)(A) of the WAQSR states, "Any person engaged in clearing or leveling of land, earthmoving, excavation, or movement of trucks or construction equipment over access haul roads or cleared land shall take steps to minimize fugitive dust from such activities. Such control measures may include frequent watering and/or chemical stabilization." Chapter 3, Section 2(f)(ii)(A) of the WAQSR states, "Any person owning, operating or maintaining a new or existing material storage, handling and/or hauling operation shall minimize fugitive dust from such operations. Such control measures may include the application of asphalt, oil, water or suitable chemicals on unpaved roads, material stockpiles and other surfaces which can give rise to airborne dust...."

4. Condition F10(b) of operating permit 3-2-121 issued March 19, 2008 for the Naughton Plant requires fugitive dust control measures as indicated in the Fugitive Dust Compliance Plan.

5. During a May 14, 2013 review of the ambient particulate data for the Naughton Plant, the Air Quality Division determined that there was an exceedance of the 24-hour PM<sub>10</sub> standard at this site on January 7, 2012. The final PM<sub>10</sub> 24-hour concentration for January 7, 2012 was measured at 169 µg/m<sup>3</sup>, exceeding the PM<sub>10</sub> 24-hour average concentration limit of 150 µg/m<sup>3</sup>. Based on a review of this monitoring data, the Division has determined that PacifiCorp has failed to take appropriate measures to control fugitive dust emissions from the excavation, stockpiling, material handling and material hauling operations at the Naughton Plant as required by Chapter 3, Section 2 of the WAQSR and the Fugitive Dust Compliance Plan.

6. Said violations consist of the failure to minimize fugitive dust emissions from the Naughton Plant in violation of W.S. §35-11-201 of the Wyoming Environmental Quality Act, Chapter 3, Section 2(f) of the Wyoming Air Quality Standards and Regulations, and the Fugitive Dust Compliance Plan.

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 5<sup>th</sup> day of JUNE, 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.)