



# 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

August 14, 2014

Mr. Rodney Perry  
CEO/President  
The Western Sugar Cooperative  
7555 E. Hampden Ave., Suite 600  
Denver, CO 80231

Re: Notice of Violation

Dear Mr. Perry,

Enclosed you will find a Notice of Violation (NOV) issued to The Western Sugar Cooperative by the Department of Environmental Quality, Air Quality Division for the failure to control odors from the Lovell Plant located in Big Horn County, Wyoming in violation of Chapter 3, Section 11 of the Wyoming Air Quality Standards and Regulations. Violations were observed by the Division on June 10, 2014.

As the Department and this Division consider the failure to comply with air quality regulatory 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 issue prior to referral to the Attorney General's office, please contact Ms. Ann Shed, 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 the Notice of Violation, please feel free to contact me or Ms. Ann Shed.

Sincerely,

Steven A. Dietrich  
Administrator  
Air Quality Division

cc: Elizabeth Lyon  
Fred Di Lella  
Ann Shed  
Greg Meeker  
Landon Brown



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

**IN THE MATTER OF THE NOTICE OF VIOLATION )  
ISSUED TO THE WESTERN SUGAR COOPERATIVE, )  
MR. RODNEY PERRY, )  
7555 E. HAMPDEN AVENUE, SUITE 600 )  
DENVER, CO 80231 )**

**DOCKET NO. 5450-14**

**NOTICE OF VIOLATION**

**NOTICE IS HEREBY GIVEN THAT:**

1. The Department of Environmental Quality, Division of Air Quality, has found The Western Sugar Cooperative to be in violation of W.S. 35-11-201 of the Wyoming Environmental Quality Act and Chapter 2, Section 11 of the Wyoming Air Quality Standards and Regulations in the operation of the Lovell Plant located in Big Horn 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 2, Section 11(a) of the Wyoming Air Quality Standards and Regulations states, "The ambient air standard for odors from any source shall be limited to: (i) An odor emission at the property line which is undetectable at seven dilutions with odor free air as determined by a scentometer as manufactured by the Barnebey-Cheney Company or any other instrument, device, or technique designated by the Division as producing equivalent results. The occurrence of odors shall be measured so that at least two measurements can be made within a period of one hour, these determinations being separated by at least 15 minutes."

4. On June 5, 6 and 7, 2014 the Air Quality Division received several odor complaints against the Lovell Plant. In response, Mr. Dave Selvig, Air Quality Inspector/Engineer, conducted odor monitoring at the Lovell Plant, on June 10, 2014.

- At 4:04 p.m. Mr. Selvig detected odor at Shoshone Avenue while approaching the facility from the east. The odors became very strong by the time the facility was reached at the corner of Great Western Avenue and W. 3<sup>rd</sup> Street (which is a public location adjacent to the facility). A Barnaby Sutcliffe box scentometer was used to determine that the odor was detectable at a 7:1 dilution.
- At 5:00 p.m., due to a shift in the wind direction, a follow-up odor evaluation was conducted on Road 10, just north of the railroad tracks. Odor was detected at a 7:1 dilution ratio using the scentometer.
- At 5:08 p.m. a third test was conducted from the south side of the facility just across the highway. Again, the odor was detected at a 7:1 dilution ratio using the scentometer. This third test was conducted in a third location due to another shift in wind.

5. Said violation consists of odors from The Western Sugar Cooperative at the Lovell Plant in excess of that allowed by regulation in violation of W.S. 35-11-201 of the Wyoming Environmental Quality Act and Chapter 2, Section 11 of the Wyoming Air Quality Standards and Regulations.

6. 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

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injunction, or both a penalty and an injunction.

7. 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 14<sup>th</sup> day of AUGUST, 2014.

  
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Steven A. Dietrich  
Administrator  
Air Quality Division

  
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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.)