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

March 18, 2015

Mr. Benjamin J. Davis
Ballard Petroleum Holdings, LLC
845 12th Street West
Billings, MT 59102

RE: Notice of Violation
Docket # 5552-15

Dear Mr. Davis:

Enclosed you will find a Notice of Violation (NOV) issued to Ballard Petroleum Holdings, LLC by the Department of Environmental Quality, Air Quality Division, for failure to permit, control emissions, conduct monitoring, and report emissions as required at the Leavitt Trust 11-5 TH facility. Ballard Petroleum Holdings, LLC has therefore not followed the Oil and Gas Production Facilities Chapter 6, Section 2 Permitting Guidance and is in direct violation of the permitting, construction and monitoring requirements of Chapter 6, Section 2(a)(i); Chapter 6, Section 3(d)(ii); and Chapter 6, Section 4 of the Wyoming Air Quality Standards and Regulations.

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 issue prior to action on the referral by 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 this matter, please feel free to contact me Ms. Ann Shed.

Sincerely,

Steven A. Dietrich

Steven A. Dietrich
Administrator
Air Quality Division

cc: Fred DiLella
Ann Shed
Landon Brown
Elizabeth Lyon
Tanner Shatto

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION	)	
ISSUED TO BALLARD PETROLEUM HOLDINGS, LLC	)	**DOCKET NO. 5552-15**
BENJAMIN J. DAVIS	)	
845 12th STREET WEST	)	
BILLINGS, MT 59102	)	

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Air Quality Division, has found Ballard Petroleum Holdings, LLC to be in violation of W.S. 35-11-203 and W.S. 35-11-801 of the Wyoming Environmental Quality Act, and Chapter 6, Section 2; Chapter 6, Section 3; and Chapter 6, Section 4 of the Wyoming Air Quality Standards and Regulations (WAQSR) in the construction and operation of the Leavitt Trust 11-5 TH facility located in Campbell County, Wyoming.

Construction/Modification Permit Program Violation

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 WAQSR 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, March 2010 and September 2013. 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 WAQSR). 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. In addition the Chapter 6, Section 2 guidance requires a continuous pilot monitoring system for emissions monitoring and emissions reporting.

6. On November 5, 2014, the Air Quality Division received an application from Ballard Petroleum Holdings, LLC for the Leavitt Trust 11-5 TH facility. It was noted that the facility became operational February 27, 2014. In accordance with the Oil and Gas Production Facilities Permitting Guidance, Ballard Petroleum Holdings, LLC should have submitted a permit application by May 28, 2014. The permit application was submitted five months and eight days late. By failing to permit the Leavitt Trust 11-5 TH facility, Ballard Petroleum Holdings, LLC 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 WAQSR.

7. In accordance with the Oil and Gas Production Facilities Permitting Guidance, within 60-days of the first date of production, flashing emissions containing greater than or equal to 10 TPY of VOC shall be controlled by at least 98%. Tank emissions were calculated to be about 681.5 TPY VOC using a declined production rate of 657 BPD. Tank emissions should have been controlled by April 28, 2014. Ballard Petroleum Holdings, LLC did not control tank emissions until October 20, 2014 which is approximately five months and twenty-two days late. The tank emissions at the facility were not controlled; therefore the emissions monitoring and reporting requirements under the Oil and Gas Production Facilities Permitting Guidance were also not met. By failing to control

emissions, conduct monitoring, and report emissions, Ballard Petroleum Holdings, LLC has not followed the Oil and Gas Production Facilities Chapter 6, Section 2 Permitting Guidance and is in direct violation of the control, monitoring and reporting requirements of Chapter 6, Section 2(a)(i) of the WAQSR.

Operating Permit Program Violation

8. W.S. 35-11-203(a) defines categories of sources subject to the operating permit program as any stationary source or group of sources which, "(A) Has the potential to emit one hundred (100) tons or more per year of any pollutant regulated under the Clean Air Act and is a major stationary source as defined in section 302 of the Clean Air Act" or "(B) Has the potential to emit ten (10) tons per year of any single hazardous air pollutant or twenty-five (25) tons per year of any combination of hazardous air pollutants as defined by section 112 of the Clean Air Act..."

9. W.S. 35-11-203(b) states that after the effective date of the operating permit program, "...it shall be unlawful for any person to violate any requirement of a permit issued under the operating permit program or to operate any source required to have a permit under this section, without having complied with the provisions of the operating permit program."

10. Chapter 6, Section 3(a) of the WAQSR states that all major sources "are subject to the operating permit requirements of this section."

11. Based on the Air Quality Division's review of operations at the Leavitt Trust 11-5 TH facility, the facility was a major source of volatile organic compound (VOC) emissions in 2014 with actual emissions of more than 100 tons per year of VOCs. By failing to permit the Leavitt Trust 11-5 TH facility, Ballard Petroleum Holdings, LLC operated the facility as a major source without a permit or permit application as required by Chapter 6, Section 3 of the WAQSR.

Prevention of Significant Deterioration Permitting Violation

12. Chapter 6, Section 4 of the Wyoming Air Quality Standards and Regulations describes the Prevention of Significant Deterioration Program as applicable to major emitting facilities and defines a major emitting facility.

13. Chapter 6, Section 4(b) states that, "Any person who plans to construct any major stationary source or undertake a major modification of an existing stationary source shall be subject to the conditions outlined below." The requirements under Chapter 6, Section 4(b) include but are not limited to: An analysis to determine compliance with maximum allowable increments of deterioration in Class I and Class II areas (Chapter 6, Section 4(b)(i)(A)(I)); An analysis to determine impairment to visibility, soil and vegetation (Chapter 6, Section 4(b)(i)(B)(I)); An analysis of ambient air quality in the area that would be affected by the facility or modification (Chapter 6, Section 4(b)(i)(E)); An analysis to determine that the proposed major emitting facility or major modification meets the emission limitations or equipment standards which represent Best Available Control Technology for each regulated pollutant (Chapter 6, Section 4(b)(ii)(A)); An analysis to determine the impact on air quality related values (including visibility) that emissions may have on any Class I area pursuant to the federal land managers affirmative responsibility to protect such values (Chapter 6, Section 4(b)(v)&(vi)).

14. A review of available information indicates the Leavitt Trust 11-5 TH facility was a major emitting facility under Chapter 6, Section 4 since it began operating in February 2014. Actual VOC emissions in 2014 were 359.2 tons. Therefore, both major source levels (of 100 TPY) and PSD levels (of 250 TPY) for VOCs were exceeded in 2014 prior to control installation. The facility should have been permitted prior to commencement of construction. By failing to permit the Leavitt Trust 11-5 TH facility, Ballard Petroleum Holdings, LLC operated the facility as a major emitting facility without complying with the permitting requirements of Chapter 6, Section 4 of the WAQSR.

15. Said violations consist of:

(a) the failure to permit, control emissions, conduct monitoring, and report emissions at the Leavitt Trust 11-5 TH 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 WAQSR;

(b) operating the Leavitt Trust 11-5 TH facility without a Chapter 6, Section 3 operating permit as required by W.S. 35-11-203(b) of the Wyoming Environmental Quality Act and Chapter 6, Section 3(d)(ii) of the WAQSR, and;

(c) the failure to obtain a PSD permit prior to construction and operation of the Leavitt Trust 11-5 TH facility as required by Chapter 6, Section 4 of the WAQSR.

16. 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.

17. 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 18th day of MARCH, 2015.

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.)