BEFORE THE

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION ISSUED TO:	)	
FMC Corporation	)	
P.O. Box 872	)	
Green River, Wyoming 82935	)	
	)	**DOCKET NUMBER 3842-06**
	)	**LQD Permit Number: 454**
	)	**WYPDES Authorization: WYR320055**

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. FMC Corporation (FMC) is the owner/operator of FMC Granger trona mining and soda ash production operations located in Section 36, Township 20 North, Range 111 West, Sweetwater County, Wyoming. Mineral mining storm water discharge renewal authorization WYR320055 was issued on September 1, 2002 and expires on March 31, 2007. The Land Quality Mine Permit 454 was issued on May 18, 1977;

2. On December 2, 2005, FMC reported a pipeline spill of approximately 16,000 gallons (381 barrels) of a process wastewater from their mine tailings injection pipeline into Bagley Draw (a class 3B water), tributary to Seven Mile Gulch (a class 3B water), tributary to the Blacks Fork River (a class 2AB water), tributary to the Green River (a class 2AB water). The wastewater was a combination of mine tailings and a 3% to 5% sodium carbonate ($NaCO_3$) solution;

3. An unpermitted discharge lasted from approximately 7:30 a.m. until 10:30 a.m. on December 2, 2005. The discharge point, a valve that was left open, frozen, and then thawed during the discharge, is located in Section 36, T20N, R111W, Sweetwater County, Wyoming. Wastewater discharged onto the ground and traveled approximately 0.8 miles down Bagley Draw where an earthen dam was constructed to contain the spill. Due to winter conditions, the spill froze in place;

4. Testing of the wastewater conducted by FMC resulted in a pH of 10.4 standard units (s.u.) and a maximum electrical conductivity (EC) of 56,300 micro-ohms per centimeter ($\mu\Omega$/cm). Follow-up testing of the ice on January 25, 2006, indicated that the dissolved solids had dropped out and the EC of the melted ice measured at a maximum of 492 $\mu\Omega$/cm with a pH of 9.98 s.u.;

5. The discharge of a process wastewater to waters of the state is not authorized under any Department of Environmental Quality permit held by FMC from the locations referenced in the case described previously;

6. Bagley Draw is a "water of the state" as defined under W.S. 35-11-103 (c)(vi);

7. Process wastewater from FMC contains "pollution" as defined in W.S. 35-11-103 (c)(i);

8. By discharging pollution into waters of the state, FMC is in violation of W.S. 35-11-301 (a)(i) of the Wyoming Environmental Quality Act (Act) and Chapter 2 of the Wyoming Water Quality Rules and Regulations (WWQRR) which state that no person, except when authorized by a permit issued by the Department of Environmental Quality, shall cause, threaten, or allow the discharge of any pollution or wastes into the waters of the state;

9. Failure to follow the approved LQD mine permit by not containing tailings water in the tailings pond or underground injection system, is a violation of W.S. 35-11-415(b)(ii) and 35-11-415(b)(viii);

10. This Notice is being sent to you pursuant to W.S. 35-11-701(c)(i), 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;

11. Pursuant to Wyoming Statute 35-11-901(a), any person who violates, or any director, officer or agent of a corporate permittee who willingly and knowingly authorizes, orders or carries out the violation of any provision of the Environmental Quality Act (Act), or any rule, regulation, standard, or permit adopted hereunder or who violates any determination or order of the council pursuant to this act or any rule, regulation, standard, permit, license, or variance is subject to a penalty not to exceed ten thousand dollars and no cents ($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. The penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming. Nothing herein shall preclude the department from negotiating stipulated settlements involving the payment of a penalty, implementation of compliance schedules or other settlement conditions, as appropriate, in lieu of litigation.

NOTHING IN THIS NOTICE OF VIOLATION (NOV) shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV be interpreted as being a condition precedent to any other enforcement action.

Signed this 6th day of February, 2006.

John V. Corra
Director
Department of Environmental Quality

John F. Wagner
Administrator
Water Quality Division

Richard A. Chancellor
Administrator
Land Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator, Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

JVC/JFW/RAC/BRB/bb/6-0091.NOV

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
Carol Bilbrough, LQD Program Manager
Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
Amy D. Boyle, LQD, Lander DEQ Office
Glen Garton, WQD, Lander DEQ Office
Todd T. Parfitt ► Brian K. Lovett ► Leah J. Krafft
NOV Docket 3842-06