



Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Dave Freudenthal, Governor

John Corra, Director

CERTIFIED MAIL

January 12, 2006

Mr. Otto Schnauber
Environmental Superintendent
FMC Corporation
P.O. Box 872
Green River, Wyoming 82935

RE: Notice of Violation, Docket Number 3836-06

Dear Mr. Schnauber:

Enclosed is a copy of a Notice of Violation, Docket Number **3836-06**, issued to FMC Corporation (FMC) due to a process wastewater release into a water of the state. The event was reported to the Wyoming Department of Environmental Quality's (DEQ) Emergency Response Coordinator on November 30, 2005.

While neither the attached Notice of Violation nor this letter constitutes an order, this office strongly urges you to take action to immediately eliminate the alleged violation as follows:

1. FMC should ensure that all discharges to waters of the state are permitted in accordance with Chapter 2 of the Wyoming Water Quality Rules and Regulations (WWQRR).
2. FMC should submit to the DEQ a plan of action to prevent this type of violation from occurring in the future. The report should be received by the DEQ on or before February 12, 2006.

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Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH
(307) 777-7758
FAX 777-3610

ABANDONED MINES
(307) 777-6145
FAX 777-6462

AIR QUALITY
(307) 777-7391
FAX 777-5616

INDUSTRIAL SITING
(307) 777-7369
FAX 777-6937

LAND QUALITY
(307) 777-7756
FAX 777-5864

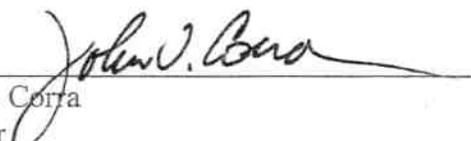
SOLID & HAZ. WASTE
(307) 777-7752
FAX 777-5973

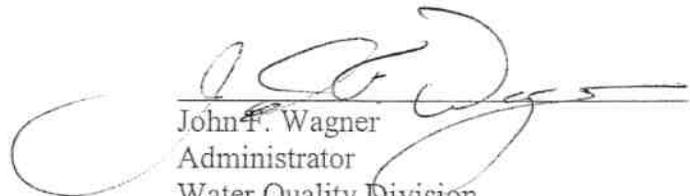
WATER QUALITY
(307) 777-7781
FAX 777-5973

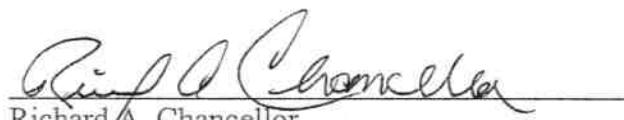


Mr. Otto Schnauber
January 12, 2006
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The DEQ has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by FMC. If FMC wishes to pursue resolution of the previously noted violation through such an agreement, please contact Mr. Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator, at (307) 777-8669 on or before January 26, 2006 to set up a meeting to discuss this matter.


John V. Corra
Director
Department of Environmental Quality


John F. Wagner
Administrator
Water Quality Division


Richard A. Chancellor
Administrator
Land Quality Division

JVC/JFW/RAC/BRB/bb/6-0017.LTR

Enclosure: Notice of Violation

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
Brian R. Bohlmann, WYPDES Compliance & Enforcement Coordinator, WQD
Carol Bilbrough, LQD Program Manager
Amy Boyle, Lander DEQ Office
Todd T. Parfitt ► Brian K. Lovett ► Leah J. Krafft
NOV Docket 3836-06

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 3836-06

) LQD Permit Number: 335
) WYPDES Authorization: WYR320020

NOTICE OF VIOLATION

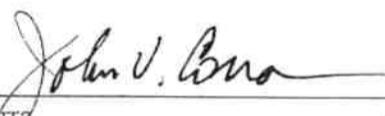
NOTICE IS HEREBY GIVEN THAT:

1. FMC Corporation (FMC) is the owner/operator of FCM Westvaco trona mining and soda ash production operations located in Townships 18 and 19 North, Range 110 West, Sweetwater County, Wyoming. Mineral mining storm water discharge renewal authorization WYR320020 was issued on September 23, 2002 and expires on March 31, 2007. The Land Quality Mine Permit 335 was issued on May 13, 1975;
2. On November 30, 2005, FMC reported a pipeline spill of approximately 850,000 gallons (20,238 barrels) of a process wastewater from their mine tailings injection pipeline into the Blacks Fork River (a class 2AB water), tributary to the Green River (a class 2AB water). The wastewater was a combination mine tailings and a 3% to 5% sodium carbonate (NaCO₃) solution. The discharged water consisted of approximately 550,000 gallons (13,095 barrels) of wastewater and 300,000 gallons (7,143 barrels) of river water used to flush the pipeline;
3. An unpermitted discharge lasted from approximately 9:00 p.m. on November 29, 2005 until 5:00 a.m. on November 30, 2005. The discharge point (a valve that was left open) is located in Section 20, T19N, R111W, Sweetwater County, Wyoming. Wastewater discharged onto the ground and traveled approximately 1.2 miles to the north across the ground and into a natural drainage until reaching the Blacks Fork River. A second discharge point to the west occurred through a vertical vent pipe. Wastewater was released from the pipe and blown down wind over an approximate 2 acre area, impacting the vegetation (predominantly sagebrush) and the soils;
4. Testing of the wastewater conducted by FMC resulted in a pH of 6.59 standard units (s.u.), a total dissolved solids (TDS) concentration of 76,200 milligrams per liter (mg/l), a total alkalinity of 67,500 mg/l, a phosphorus concentration of 61.2 mg/l, a bicarbonate concentration of 11,400 mg/l, a carbonate concentration of 34,900 mg/l, a chloride concentration of 1,920 mg/l, and a sodium concentration of 31,600 mg/l;
5. The Wyoming Game and Fish Department (WGFD) investigated the spill on November 30, 2005. Due to the ground being frozen, the WGFD estimated that 90% of the discharged water entered the Blacks Fork River. With the Blacks Fork River being frozen over, the WGFD was unable to determine if there were any impacts to fish or other aquatic life in the river. The Blacks Fork River contains mainly non-game fish species at the location where the discharged water entered the river;
6. 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;
7. The Blacks Fork River is a "water of the state" as defined under W.S. 35-11-103 (c)(vi);

8. Process wastewater from FMC contains "pollution" as defined in W.S. 35-11-103 (c)(i);
9. 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;
10. 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);
11. 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;
12. 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 12TH day of JANUARY, 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/6-0017.LTR

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
Carol Bilbrough, LQD Program Manager
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NOV Docket 3836-06