



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

March 2, 2006

Ms. Lisa Norton
Yates Environmental Coordinator
Yates Petroleum Corporation
104 South 4th Street
Artesia, NM 88210

RE: Notice of Violation Docket Number 3845-06

Dear Ms. Norton:

Enclosed is a copy of Notice of Violation, Docket Number 3845-06, for the unauthorized discharge of CBM produced water into waters of the state by Yates Petroleum Corporation (Yates). The first noted discharge was from a reservoir associated with WYPDES permit WY0037371 during the irrigation season which resulted in an SAR exceedance at the ICP. A second discharge was through an unpermitted outfall associated with WYPDES permit WY0037770. Copies of each inspection report are attached.

While neither the attached Notice of Violation nor this letter constitutes an order, it is the recommendation of this office that you take action to eliminate the alleged violations as follows:

1. Yates should maintain compliance with all conditions established in applicable WYPDES permits and authorizations.
2. Yates should ensure that all CBM produced water is discharged through permitted outfalls only.
3. Yates should submit a report to the WQD for review indicating the steps taken to prevent these violations from occurring again in the future. This report should be received by the WQD on or before March 31, 2006.

THIS SECTION INTENTIONALLY LEFT BLANK

Page L-1

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002 • <http://deg.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) 777-7368 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
--	---	---	---	--	--	---



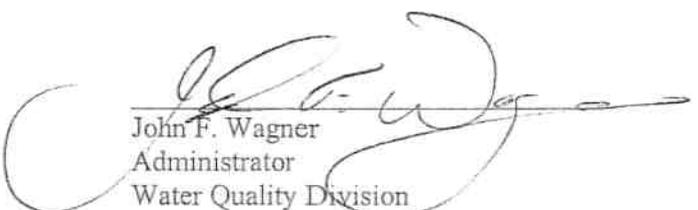
Yates Petroleum Corporation

March 2, 2006

Page L-2

The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by Yates. If Yates wishes to pursue resolution of the previously noted violations through such an agreement, please contact Mr. Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator, at (307) 777-8669 on or before March 17, 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

JVC/JFW/BRB/bb/6-0178.LTR

Enclosure: Notice of Violation
8/31/05 Inspection Report
1/18/06 Inspection Report

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
James B. Eisenhauer, WYPDES Inspection Program Coordinator, Sheridan DEQ Office
Craig W. Toal, Casper DEQ Office
Brian K. Lovett ▶ Leah J. Krafft
NOV Docket 3845-06
Director, DEQ

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO:)

Yates Petroleum Corporation)
105 South 4th Street)
Artesia, NM 88210)

DOCKET NUMBER 3845-06

NOTICE OF VIOLATION

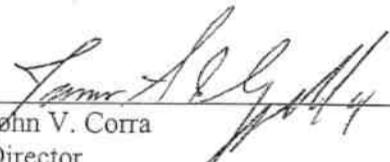
NOTICE IS HEREBY GIVEN THAT:

1. Yates Petroleum Corporation (Yates) is the owner of a coal bed methane (CBM) facility called West Kitty CS State #1 located in the Southeast Quarter of the Southeast Quarter in Section 25, Township 51 North, Range 74 West (SESE Qtr., Sec. 25, T51N, R74W), Campbell County, Wyoming. WYPDES permit WY0037371 was renewed by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD), and issued to Yates on August 22, 2003. The permit expires on August 31, 2008. Produced water from the facility is discharged to an unnamed ephemeral tributary of Rawhide Creek (a class 3B water), tributary to the Little Powder River (a class 2AB water);
2. The WQD conducted an inspection of Yates' West Kitty CS State #1 facility on August 31, 2005. As noted in the inspection report, flow was present at the irrigation compliance point (ICP). Part I.A.1. of WYPDES permit WY0037371 concerning discharges from reservoirs states the following: *"Discharge of effluent from the reservoirs is not allowed from April 1 thru September 30 unless runoff from a storm event greater than a 2-year, 24-hour storm event exceeds reservoir capacity."* As noted on the inspection report, CBM produced water was flowing at approximately one thousand gallons per day (1,000 gpd) at the ICP. The flow at the ICP was a result from a reservoir release and not a storm event. Thus Yates is in violation of Part I.A.1. of WYPDES permit WY0037371;
3. The WQD received water quality results of samples collected from the WQD lab on January 27, 2006. The sodium adsorption ratio (SAR) at the ICP is limited to a daily maximum of 7 by Part I.A.1. of WYPDES permit WY0037371. The water sample collected by the WQD inspector on August 31, 2005 resulted in a SAR of 16 at the ICP. Thus Yates is in violation of permitted effluent limit for SAR at the ICP;
4. Yates is the owner of a CBM facility called Larson CS Fee #1 located in Sec. 23, T44N, R74W, Campbell County, Wyoming. WYPDES permit WY0037770 was renewed by the DEQ and issued to Yates on August 29, 2002. The permit expires on July 31, 2007. Produced water from the facility is discharged to an unnamed ephemeral tributary of North Fourmile Creek (a class 3B water), tributary to Fourmile Creek (a class 3B water), tributary to the Belle Fourche River (a class 2AB water);
5. The WQD conducted an inspection of Yates' Larson CS Fee #1 on January 18, 2006. As noted during the inspection report, outfall 004 was not discharging during the inspection, but CBM produced water was flowing from a by-pass line below outfall 004. During the inspection it was determined that the by-pass line began discharging on November 22, 2005;

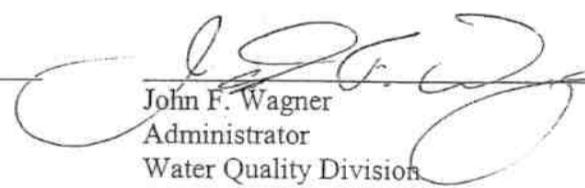
6. CBM produced water is considered "pollution" as defined in W.S. 35-11-103 (c)(i);
7. The discharge referenced above entered an unnamed ephemeral tributary of North Fourmile Creek which is a "water of the state" as defined under W.S. 35-11-103 (c)(vi) and was not through a permitted discharge point listed in WYPDES permit WY0037770;
8. By discharging pollution into waters of the state without a permit, Yates is in violation of W.S. 35-11-301 (a)(i) and Chapter 2 of the Wyoming Water Quality Rules and Regulations 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. 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;
10. 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, 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 March, 2006.



John V. Corra
Director
Department of Environmental Quality



John F. Wagner
Administrator
Water 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/BRB/bb/6-0178.NOV

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
James B. Eisenhauer, WYPDES Inspection Program Coordinator, Sheridan DEQ Office
Craig W. Toal, Casper DEQ Office
Brian K. Lovett ▶ Leah J. Krafft
NOV Docket 3845-06
Director, DEQ