



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

May 30, 2006

CERTIFIED MAIL

Mr. Michael Morgan
Wyoming Area Supervisor
The Termo Company
P.O. Box 1007
Gillette, Wyoming 82717

RE: Notice of Violation, Docket Number 3887-06

Dear Mr. Morgan:

Enclosed is a copy of a Notice of Violation, Docket Number 3887-06, issued to The Termo Company (Termo) for the unpermitted discharge of coal bed methane (CBM) produced water into a water of the state. WYPDES permit application WY0052019 was received by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) on July 9, 2004. The application was determined to be incomplete and returned to Termo on August 12, 2004. An unpermitted discharge through outfall 005 of WYPDES permit application WY0052019 began on March 25, 2006 and was stopped on April 18, 2006. As of the date of this NOV, the WQD has not received an updated permit application for the Kline Draw Project from Termo.

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

1. Termo should inform the WQD in writing of the steps taken to ensure that the unpermitted discharge of CBM produced water noted in NOV Docket Number 3887-06 does not happen again. This information should be received by the WQD on or before June 30, 2006.
2. Termo 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).

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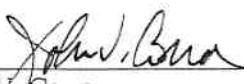


Mr. Michael Morgan

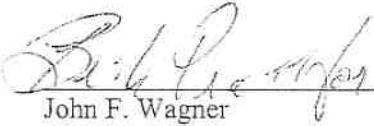
May 24, 2006

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The WQD appreciates the willingness of Termo to take immediate steps to correct the violation. The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by Termo. If Termo 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 June 16, 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/6-0452.LTR

Enclosure: Notice of Violation

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
James B. Eisenhauer, WYPDES Inspection Coordinator, Sheridan DEQ Office
Bill J. DiRienzo ► Brian K. Lovett ► Leah J. Krafft
IPS (for scanning) ► Docket 3857-06
Keith Guille, DEQ Public Information Officer (PDF File)
DEQ Director

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

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

The Termo Company)
P.O. Box 1007)
Gillette, Wyoming 82717)

DOCKET NUMBER 3887-06

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

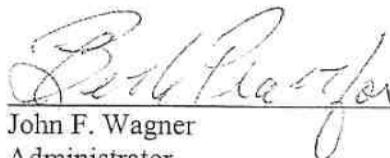
1. The Termo Company (Termo) is the owner/operator of the coal bed methane (CBM) Kline Draw Project located in Sections 8 and 17, Township 56 North, Range 75 West (Sec. 8 and 17, T56N, R75W), Campbell County, Wyoming. WYPDES permit application WY0052019 was received by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) on July 9, 2004. The application was determined to be incomplete and returned to Termo on August 12, 2004. As of the date of this NOV, the WQD has not received an updated permit application for the Kline Draw Project from Termo, and WYPDES permit WY0052019 has never been issued;
2. As noted in their May 19, 2006 letter, the discharge from outfall 005 of proposed WYPDES permit WY0052019 began on March 25, 2006. Water analysis samples were received from the lab and the Initial Monitoring Report (IMR) for outfall 005 was being prepared on April 19, 2006 when it was discovered by Termo that WYPDES permit WY0052019 was never issued. Termo had shut in all wells discharging to the reservoir through outfall 005 on April 18, 2006 to conduct maintenance at the facility;
3. The Department of Environmental Quality has no record of permits authorizing the discharge of CBM produced water by Termo to waters of the state from the location referenced for the Kline Draw Project in the case described previously;
4. Kline Draw and its tributaries are "waters of the state" as defined under W.S. 35-11-103 (c)(vi);
5. CBM produced water contains "pollution" as defined in W.S. 35-11-103 (c)(i);
6. By discharging pollution into waters of the state, Termo is in violation of W.S. 35-11-301 (a)(i) 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;
7. 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 30 day of May, 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/6-0452.NOV

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
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