



# 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**

June 2, 2006

Mr. Read Kendall  
J.W. Operating Company  
P.O. Box 305  
Wray, Colorado 80758

*RE: NOV Docket Number 3892-06 -- Failing to  
pay all Fiscal Year 2005 WYPDES fees*

Dear Mr. Kendall:

Enclosed is a copy of a Notice of Violation, Docket Number 3892-06 issued to J.W. Operating Company (the company). The company is the registered owner and operator of WYPDES permits and/or authorizations during the period from July 1, 2004 through June 30, 2005. A WYPDES fee invoice was sent to the company on July 29, 2005 requesting payment of all fees by September 1, 2005. A second WYPDES fee invoice was sent to the company on December 6, 2005 requesting payment of all fees by January 16, 2006. The company was called in April, 2006 and a third invoice was faxed to the company. To date, all WYPDES permit and/or authorization fees have not been paid by the company in violation of W.S.35-11-312.

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 violations as follows:

1. The company should pay the WYPDES permit fee of one hundred dollars and no cents (\$100.00) for each permit (WY0020265) and a penalty of five hundred dollars and no cents (\$500.00) for failing to submit the fee payment when required. A total payment of six hundred dollars and no cents (\$600.00) should be received by the DEQ on or before June 30, 2006.
2. Payment to the DEQ shall be by check made payable to the Wyoming Department of Environmental Quality, Water Quality Division. The payment should be sent to: Mr. Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator, Department of Environmental Quality, Water Quality Division, Herschler Building, 4<sup>th</sup> Floor-West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming, 82002. The check should reference Docket Number 3892-06 and WYPDES invoice number 2005-437.

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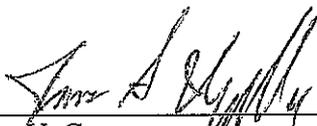
Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

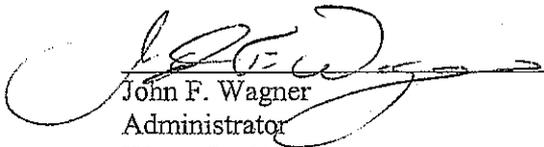
ADMIN/OUTREACH (307) 777-7758 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-6937	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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June 2, 2006  
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The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by the company. If the company 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.

  
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John V. Corra  
Director  
Department of Environmental Quality

  
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John F. Wagner  
Administrator  
Water Quality Division

JVC/JFW/BRB/bb/6-0496.LTR

Enclosure: WYPDES Invoice 2005-437  
Docket Number 3892-06

cc: Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator  
Docket Number 3892-06

BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

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

J.W. Operating Company )  
P.O. Box 305 )  
Wray, Colorado 80758 )

DOCKET NUMBER 3892-06

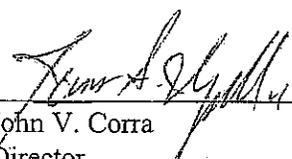
NOTICE OF VIOLATION

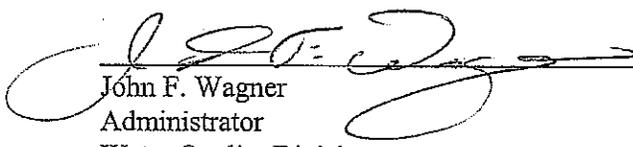
**NOTICE IS HEREBY GIVEN THAT:**

1. J.W. Operating Company (the company) is the owner of WYPDES permit WY0020265 allowing them to discharge to the surface waters of the State of Wyoming. A WYPDES fee invoice was sent to the company on July 29, 2005 requesting payment of all fees by September 1, 2005. A second WYPDES fee invoice was sent to the company on December 6, 2005 requesting payment of all fees by January 16, 2006. The company was called the middle of April, 2006 and faxed a third invoice. To date, the one hundred dollar and no cent (\$100.00) fee for each WYPDES permit and/or authorization has not been paid;
2. W.S. 35-11-312 states: *"On July 1 of each year, the department shall assess an annual permit fee of one hundred dollars (\$100.00) for each national pollutant discharge elimination system permit and for each permit authorization held by any person under W.S. 35-11-301 during any portion of the preceding twelve (12) month period..."*;
3. WYPDES permits and/or authorizations were active during Fiscal Year 2005 which is from July 1, 2004 through June 30, 2005. Therefore the company is required to pay the \$100.00 fee for each permit and/or authorization. By failing to pay all WYPDES permit and/or authorization fees, the company has violated W.S. §35-11-312;
4. 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;
5. 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 5th day of June 2006.

  
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John V. Corra  
Director  
Department of Environmental Quality

  
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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, 4<sup>th</sup> Floor West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

JVC/JFW/BRB/bb/6-0496

cc: Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator  
NOV Docket 3892-06  
DEQ Director