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** August 1, 2006

Mr. David T. Hill, P.E.
Advanced HES Professional
Powder River Business Unit
Pennaco Energy, Inc.
3601 Southern Drive
Gillette, Wyoming 82718

***RE: Notice of Violation and Order, Docket Number 3899-06***

Dear Mr. Hill:

Attached is a Notice of Violation and Order Docket Number **3899-06** for the unauthorized discharge of coal bed methane (CBM) produced water by Pennaco Energy Inc. (Pennaco), a wholly owned subsidiary of Marathon Oil Company (Marathon) from the R14-32 reservoir. The reservoir, which receives CBM produced water from outfall 004 of WYPDES permit WY0052485 is a full containment reservoir. The valve controlling the discharge flow rate into the R14-32 reservoir had been adjusted to allow additional flow into the reservoir resulting in the reservoir overtopping. Part I.A.1. of WYPDES permit WY0052485 states the following: ***"... This permit prohibits discharge of effluent from the reservoirs except in the event of a 100-year/24-hour storm event or greater. ... Additional releases from reservoir(s) are not authorized. "*** Since the overtopping and discharging of CBM produced water from the R14-32 reservoir was due to the adjustment of the flow valve and not due to a 100-year/24-hour or greater storm event, Pennaco is in violation of Part I.A.1. of WYPDES permit WY0052485.

**ANY APPEALS TO THE ENVIRONMENTAL QUALITY COUNCIL FROM THE ATTACHED ORDER MUST BE MADE IN WRITING WITHIN THE TEN (10) DAY TIME LIMIT PRESCRIBED BY W.S. 35-11-701(c).** Chapter I, Section 3 of the enclosed Department of Environmental Quality Rules of Practice and Procedure sets forth the requirements for the initiation of appeal proceedings. You are urged to review all of the provisions of the attached Rules of Practice and Procedures as they relate to this action.

To appeal this Order and request a hearing, you must file two (2) copies of your written petition. The first petition shall be mailed to the Chairman of the Environmental Quality Council at Room 1714, Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. The second petition should be sent to John V. Corra, Director, Wyoming Department of Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.



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

| ADMIN/OUTREACH | ABANDONED MINES | AIR QUALITY | INDUSTRIAL SITING | LAND QUALITY | SOLID & HAZ. WASTE | WATER QUALITY |
|---|---|---|---|---|---|---|
| (307) 777-7758 | (307) 777-6145 | (307) 777-7391 | (307) 777-7369 | (307) 777-7756 | (307) 777-7752 | (307) 777-7781 |
| FAX 777-3610 | FAX 777-6462 | FAX 777-5616 | FAX 777-6937 | FAX 777-5864 | FAX 777-5973 | FAX 777-5973 |

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

John V. Corra
Director
Department of Environmental Quality

John F. Wagner
Administrator
Water Quality Division

JVC/JFW/BRB/MB/bb/6-0676.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 3899-06
Keith Guille, DEQ Public Information Officer (PDF File Only)
DEQ Director
Environmental Quality Council

**BEFORE THE**

**ENVIRONMENTAL QUALITY COUNSIL**

**STATE OF WYOMING**

| | | |
|---|---|---|
| **IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:** | ) | |
| **Pennaco Energy Inc.**<br>**3601 Southern Drive**<br>**Gillette, Wyoming 82718** | ) | **DOCKET NUMBER 3899-06** |

**NOTICE OF VIOLATION**

**AND**

**ORDER**

**NOTICE IS HEREBY GIVEN THAT:**

1. Pennaco Energy Inc. (Pennaco), a wholly owned subsidiary of Marathon Oil Company (Marathon), is the owner/operator of the Rucki 15 Non-Discharging Pod coal bed methane (CBM) facility located in the Southeast ¼ of the Southwest ¼ in Section 32, Township 58 North, Range 82 West (SESW ¼, Sec 32, T58N, R82W), Sheridan County, Wyoming. WYPDES permit WY0052485 was issued to Pennaco on June 1, 2005 and expires on April 30, 2009;

2. On July 11, 2006, Pennaco reported that the R14-32 reservoir, which received CBM produced water from outfall 004 associated with WYPDES permit WY0052485, had overtopped. This resulted in the unauthorized discharge of CBM produced water to an on-channel stock reservoir on an unnamed ephemeral tributary (a class 3B water) to Little Badger Creek (a class 3B water), which is a tributary to Badger Creek (a class 3B water), which is a tributary to the Tongue River (a class 2AB water). The unauthorized discharge occurred in Sheridan County;

3. As reported by Pennaco to the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD), the staff gauge measuring the discharge flow rate into the R14-32 reservoir was reading "2" on Friday, July 7, 2006. When the reservoir was checked again on Monday, July 10, 2006, the staff gauge measuring the discharge flow rate into the R14-32 reservoir was reading "7". The valve controlling the discharge flow rate into the R14-32 reservoir had been adjusted to allow additional flow into the reservoir. Additionally, the R14-32 reservoir had reached its maximum capacity and CBM produced water was flowing down the spillway and into the unnamed tributary draw to Little Badger Creek. All CBM produced water was contained in an existing stock reservoir located approximately a quarter mile down stream from the R14-32 reservoir;

4. Part I.A.1. of WYPDES permit WY0052485 states the following: ***"... This permit prohibits discharge of effluent from the reservoirs except in the event of a 100-year/24-hour storm event or greater. ... Additional releases from reservoir(s) are not authorized. "*** Since the overtopping and discharging of CBM produced water from the R14-32 reservoir was due to the adjustment of the flow valve and not due to a 100-year/24-hour or greater storm event, Pennaco is in violation of Part I.A.1. of WYPDES permit WY0052485;

5. 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;

## ORDER

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL – STATE OF WYOMING**

**WHEREFORE IT IS HEREBY ORDERED THAT:**

1. Pennaco Energy, Inc. (Pennaco) shall submit a permit application to the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) to modify WYPDES permit WY0052485. The permit application shall request the use of multiple on-channel reservoirs below each permitted outfall. Multiple on-channel reservoirs shall only be allowed for use where Pennaco can demonstrate that no irrigation activities occur between the reservoirs. All other permit conditions shall remain the same.

2. Pennaco shall submit the above requested permit application to modify WYPDES permit WY0052485 to the WQD on or before September 5, 2006.

3. Pennaco shall inform the WQD in writing of the steps taken to prevent this type of violation from occurring again. This information shall be received by the WQD on or before August 15, 2006.

This ORDER is final unless, no later than ten (10) days after the date this notice is received, it is appealed by filing two written requests for a hearing before the Environmental Quality Council. If a hearing is requested, the first hearing petition shall be mailed to the Chairman, Wyoming Environmental Quality Council, Room 1714, Herschler Building, 1st Floor West, 122 West 25th St., Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of the Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th St., Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

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

Ordered this 10 day of August, 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 at the 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/6-6-0676.NOV

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
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Environmental Quality Council