



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

July 20, 2007

Mr. Gregory Smith
Pennaco Energy, Inc.
3601 Southern Drive
Gillette, WY 82718

RE: Notice of Violation, Docket Number 4112-07

Dear Mr. Smith:

Attached is a copy of a Notice of Violation, Docket Number 4112-07, issued to Pennaco Energy Inc. for recurring violations of WYPDES permit requirements. The Wyoming Department of Environmental Quality (DEQ) Water Quality Division (WQD) has reviewed Letters of Violation (LOVs) issued to Pennaco and also exceedance notifications submitted by Pennaco with regards to WYPDES permit requirements. Pennaco also had an unpermitted discharge of CBM produced water on or around March 30, 2007.

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 alleged violations as follows:

1. Pennaco should maintain compliance with all conditions established in their WYPDES permits.
2. Pennaco should provide the WQD with an inventory of identified violations, actions to be taken to achieve compliance with permit requirements, and a compliance schedule for completion of each identified action. The report should be presented to the WQD during discussion to settle this Notice of Violation.

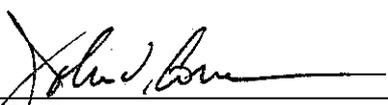
*Pennaco Energy, Inc.,
July 20, 2007
Page 1*

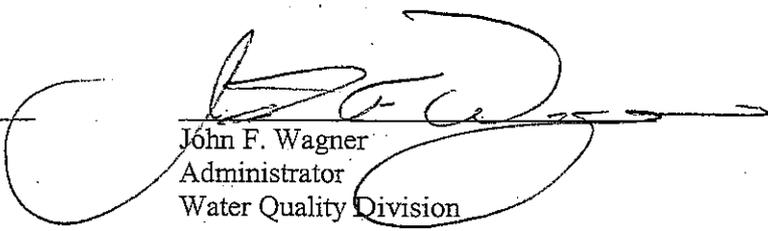
Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH (307) 777-7937 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 777-5973	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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The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a stipulated penalty and agreement to an enforceable compliance schedule by Pennaco. If Pennaco wishes to pursue resolution of the previously noted violations through such an agreement, please contact Mr. Kevin M. Welis, WYPDES Compliance & Enforcement Coordinator at (307) 777-8669, or Mr. Brian K. Lovett, WYPDES Inspection & Compliance Supervisor at (307) 777-5630 on or before August 17, 2007 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/KMW/bb/rm/7-0590

Enclosure: Notice of Violation

cc: Aaron Urdiales, 8ENF-W-NP, EPA Region 8 (PDF)
Jim Eisenhauer, Sheridan DEQ Office (PDF)
Bill J. DiRienzo ► Brian K. Lovett ► Leah J. Krafft
IPS (for scanning) ► Docket 4112-07
Keith Guille, DEQ Public Information Officer (PDF file-only)
DEQ Director

BEFORE THE

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF WYOMING

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

**Pennaco Energy, Inc.
3601 Southern Drive
Gillette, WY 82718**

DOCKET NUMBER 4112-07

NOTICE OF VIOLATION

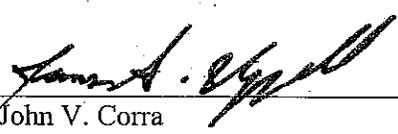
NOTICE IS HEREBY GIVEN THAT:

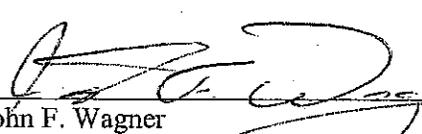
1. Pennaco Energy, Inc. (Pennaco) operates numerous coal bed methane gas production facilities in Wyoming. Pennaco holds numerous Wyoming Pollution Discharge Elimination System (WYPDES) permits in Wyoming. The WYPDES permits were issued by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD).
2. As of July 18, 2007 Pennaco has had numerous instances of recurring violations with its WYPDES permits. Letters of violation (LOVs) have been issued to Pennaco by the WQD on many occasions, including 3 LOVs resulting from inspections. In other instances exceedance notifications, or discharge monitoring reports (DMRs) have identified additional violations.
3. Pennaco has submitted 21 exceedance notifications from January 2007 through July 2007.
4. Pennaco has missed 53 required sampling events from January 2005 through December 2006.
5. Pennaco has had 66 permit limit exceedences reported on DMRs from January 2005 through December 2006.
6. Pennaco has had many reoccurring problems with their self-generated DMR submissions. The problems include; not reporting the daily maximum flow, submitting DMRs for nonexistent outfalls, listing the parameters in the incorrect order, wrong units on the DMRs, incorrect limits, missing DMRs, missing parameters, and incorrect frequencies for parameters on the DMRs.
7. Pennaco has 7 WYPDES permits that have had 4 or more recurring violations . These violations occurred under the following permits: WY0039055 (twice), WY0039519, WY0041823, WY0044318, WY0051489, and WY0051497.
8. Pennaco has 2 WYPDES permits that have had 3 recurring violations. These violations occurred under the following permits: WY0039047 and WY0039641.
9. Pennaco has 9 WYPDES permits that have had 2 recurring violations. These violations occurred under the following permits: WY0039934, WY0041831, WY0042102, WY0047422, WY0047554, WY0048500, WY0049221, WY0051497, and WY0051799.

10. Pennaco had an unpermitted discharge on or around March 30, 2007, which was followed up by a WQD inspection on April 7, 2007. Pennaco submitted an estimated volume figure of 163,800 gallons of CBM produced water for the unpermitted discharge. The discharged water reached Wild Horse Creek.
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 on 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 DEQ from negotiating stipulated settlements involving the payment of a penalty, implementation of compliance schedules or other settlement conditions.

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 26th day of July, 2007.


John V. Corra
Director
Department of Environmental Quality


John F. Wagner
Administrator
Water Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Kevin M. Wells., 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/KMW/MB/bb/rm/7-0590

cc: Aaron Urdiales, 8ENF-W-NP, EPA Region 8 (PDF)
Jim Eisenhauer, Sheridan DEQ Office (PDF)
Bill J. DiRienzo ► Brian K. Lovett ► Leah J. Krafft
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Keith Guille, DEQ Public Information Officer (PDF file only)
DEQ Director