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

November 13, 2007

Black Diamond Energy, Inc.
Mr. Eric Koval
29 Stage Trail Road
Buffalo, WY 82834

RE: Notice of Violation, Docket Number 4165-07

Dear Mr. Koval:

Enclosed is a copy of Notice of Violation, Docket Number 4165-07, for the unauthorized discharge of coal bed methane (CBM) produced water into waters of the state by Black Diamond Energy, Inc. (Black Diamond). The unauthorized discharges commenced under WYPDES permit WY0052884. These are violations of the Wyoming Environmental Quality Act (Act), the Wyoming Water Quality Rules and Regulations (WWQRR), and applicable permit conditions associated with the WYPDES permits.

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. Black Diamond should provide the Water Quality Division (WQD) the required information to comply with the permit requirements. Black Diamond should not commence further discharge of CBM produced water under WYPDES permit WY0052884, or any WYPDES permits that mirror this permit, without proper ground water approval and completion of reservoir bonding reclamation requirements. This information should be received by the WQD on or before November 30, 2007.

The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by Black Diamond. If Black Diamond wishes to pursue resolution of the previously noted violations through such an agreement, please contact Mr. Kevin M. Wells, WYPDES Compliance & Enforcement Coordinator at (307) 777-8669, or Mr. Brian K. Lovett, WYPDES Inspection & Compliance Supervisor at (307) 777-5630, on or before November 30, 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/cs/7-0939
Enclosure: Notice of Violation
cc: Aaron Urdiales, 8ENF-W-NP, EPA Region 8 (PDF)
James B. Eisenhauer, WYPDES Inspection Coordinator, Sheridan DEQ Office (PDF
Bill J. DiRienzo ► Brian K. Lovett ► Leah J. Krafft
IPS (for scanning) ► Docket 4165-07
Keith Guille, DEQ Public Information Officer (PDF File Only)

BEFORE THE

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION ISSUED TO:	)	
Black Diamond Energy, Inc. **29 Stage Trail Road** **Buffalo, WY 82834**	)	**DOCKET NUMBER 4165-07**

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Black Diamond Energy, Inc. (Black Diamond) operates a coal bed methane (CBM) production facility associated with Crazy Woman Project Reservoirs located in Sections 4, 5, 6, 10, 14, and 15, Township 51 North, Range 79 West, and Section 26, Township 52 North, Range 79 West, Johnson County, Wyoming.

2. On September 6, 2007 the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) conducted an inspection of outfalls and reservoirs associated with WYPDES permit WY0052884. During the inspection CBM produced water was observed discharging from outfall 005 which discharges to an **on-channel** reservoir "Paul" located in an ephemeral tributary to Crazy Woman Creek (class 2AB) which is a tributary to the Powder River (class 2ABWW).

3. The above referenced WYPDES permit states in **Part 1, C. RESERVOIR / IMPOUNDMENT REQUIREMENTS: Section 1. Groundwater Monitoring Beneath Impoundments** (with reference to Table 1): *"These specified outfalls are not authorized to discharge until a written groundwater compliance approval has been granted by the Groundwater Pollution Control Program of the Water Quality Division. Once an impoundment has been granted a written groundwater compliance approval, the contributing outfall(s) to that reservoir may commence discharge."* Records review within the WQD indicates Black Diamond has not received approval to commence discharging from this outfall as required for this outfall and reservoir identified in the WYPDES permit.

4. The above referenced WYPDES permit states in **Part 1, C. RESERVOIR / IMPOUNDMENT REQUIREMENTS: Section 2. Reclamation Performance Bonds for On-Channel Reservoirs**: Table 1 of the permit identifies which outfalls are designed to discharge into impoundments that are subject to WDEQ bonding requirements, as set forth in the latest version of the Water Quality Division guideline ***"Implementation Guidance for Reclamation and Bonding of On-Channel Reservoirs That Store Coalbed Natural Gas Produced Water.*** *These specified outfalls are not authorized to discharge until the associated reservoir reclamation bond is approved by the DEQ. Once the reservoir reclamation bond is approved by WDEQ, the contributing outfall(s) to that reservoir may commence discharge."* A records review within the WQD indicates Black Diamond has not received the required bond coverage for any reservoirs associated with WYPDES permit WY0052884.

5. The discharge referenced above commenced without approval from the WDEQ resulting in an "unauthorized discharge" which puts Black Diamond in violation of WYPDES permit WY0052884.

6. 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;

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, 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 13 day of Nov, 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 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/KMW/cs/7-0939

cc: Aaron Urdiales, 8ENF-W-NP, EPA Region 8 (PDF)
James B. Eisenhauer, WYPDES Inspection Coordinator, Sheridan DEQ Office (PDF)
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DEQ Director