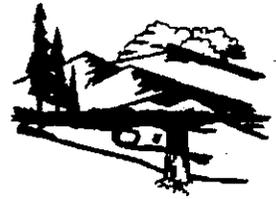




# Department of Environmental Quality



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 4, 2008

**Mr. Hugo Cartaya**  
Nadel and Gussman Rockies, LLC  
621 17<sup>th</sup> Street, Suite 1450  
Denver, Colorado 80293

***RE: Notice of Violation, Docket Number 4280-08***

Dear Mr. Cartaya:

Attached is a copy of a Notice of Violation, Docket Number 4280-08, issued to Nadel and Gussman Rockies, LLC (N & G), for the release of sludge and oil staining associated with WYPDES permit WY0025917. On May 20, 2008, the Department of Environmental Quality, Water Quality Division (DEQ/WQD) inspected N & G's Espy #9 unit. Results of the site visit are included in the Notice of Violation Docket Number 4280-08 accompanying this letter.

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 alleged violations as follows:

1. N & G should maintain compliance with all conditions established in the above referenced WYPDES permit.
2. N & G should cease all discharge of crude oil from the heater unit to the channel, and ensure all of the waste generated at the facility is routed through the treatment pits.
3. N & G should submit to the WQD a plan of action to clean up and dispose of all oil stained materials and sludge, including soil and vegetation. The report should be received by the WQD within 10 days of the date of this letter.
4. N & G should provide the WQD with a written report indicating the steps taken to prevent these violations from occurring again in the future. The report should be received by the WQD within 30 days of the date of this letter.

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*Page L-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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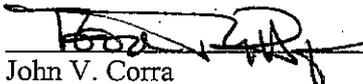


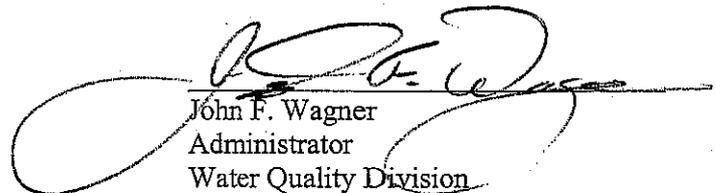
*Nadel and Gussman Rockies, LLC*

*June 4, 2008*

*Page L-2*

The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by N & G. If N & G wishes to pursue resolution of the previously noted violations through such an agreement, please contact Mr. Kevin M. Wells, WYPDES Compliance & Enforcement Program Coordinator, at (307) 777-8669 within 10 days of receipt of this letter 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/8-0437

Enclosure: Notice of Violation

cc: Lee Hanley, 8ENF-W-NP, EPA Region 8 (PDF)  
Bill DiRienzo ► Brian K. Lovett ► Leah J. Krafft (PDF)  
NOV Docket 4280-08

Mr. Don J. Likwartz  
Director  
Wyoming Oil & Gas Conservation Commission  
P.O. Box 2640  
Casper, WY 82602

**BEFORE THE**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**STATE OF WYOMING**

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

**Nadel and Gussman Rockies, LLC  
621 17<sup>th</sup> Street, Suite 1450  
Denver, Colorado 80293**

**DOCKET NUMBER 4280-08**

**NOTICE OF VIOLATION**

**NOTICE IS HEREBY GIVEN THAT:**

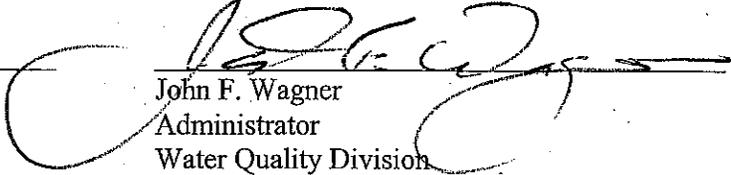
1. Nadel and Gussman Rockies, LLC (N & G) is the owner of an oil treater facility located in Section 23, Township 19 North, Range 89 West (Sec 23, T19N, R89W), Carbon County, Wyoming called the Espy #9 unit. WYPDES permit WY0025917 was issued by the Wyoming Department of Environmental Quality, Water Quality Division, (DEQ/WQD), to N & G and became effective on December 1, 2007. Produced water from the facility is discharged to Separation Creek (class 3B) via an unnamed drainage into the Great Divide Basin;
2. On May 20, 2008, the WQD conducted an inspection at N & G's Espy #9 unit in response to a request received on May 19, 2008 by the Bureau of Land Management (BLM) to investigate the impact of a hydrocarbon release from this facility that occurred in December 2007;
3. The May 20, 2008 inspection noted the following: (1) the facility was not operating due to ongoing repairs; (2) the unnamed channel was severely stained with oil for approximately ½ mile down gradient of the discharge point; (3) large "globs" of sludge were observed in the channel and clinging to native vegetation, (4) the sludge had not reached a BLM stock pond approximately ¼ mile below the last noted location of the sludge and staining, but (5) runoff was occurring from snow melt transporting the hydrocarbon product further down the channel;
4. The unauthorized release of sludge from this facility is a violation of WYPDES permit WY0025917, Chapter 2 of the Wyoming Water Quality Rules and Regulations (WWQRR) and section 35-11-301 (a)(i) of the Wyoming Environmental Quality Act (Act);
5. The oil staining and sludge deposits in the channel downstream of the permitted outfall are violations of WYPDES permit WY0025917, Chapter 1 of the WWQRR and section 35-11-301 (a)(ii) of the Act;
6. The discharge referenced above entered "waters of the state" as defined under W.S. 35-11-103 (c)(vi) and "hydrocarbon" is defined as pollution in W.S. 35-11-103 (c)(i);
7. By discharging pollution into waters of the state, N & G is in violation of W.S. 35-11-301 (a)(i) and Chapter 2 of the Wyoming Water Quality Rules and Regulations 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;
8. 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;

9. 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 10<sup>th</sup> day of June, 2008.

  
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 Program 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/KMW/bb/8-0437

cc: • Lee Hanley, 8ENF-W-NP, EPA Region 8 (PDF)  
Bill DiRienzo ► Brian K. Lovett ► Leah J. Krafft (PDF)  
NOV Docket 4280-08  
Director, DEQ

Mr. Don J. Likwartz, Director  
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