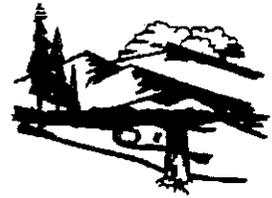




Department of Environmental Quality



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

January 23, 2009

Mr. Means
Magna Energy Service
PO Box 1024
Gillette, WY 82717

RE: Notice of Violation, Docket Number 4415-09

Dear Mr. Means:

Enclosed is a copy of Notice of Violation, Docket Number 4415-09, for the unpermitted discharge of a produced substance containing a black sludge and coal fines into a "barrow ditch" that entered an unnamed tributary to Barber Creek by Magna Energy Service (Magna). On December 16, 2008 the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) conducted an inspection of the impacted site and observed material that had been discharged into the barrow pit along a county road containing a black sludge and coal fines, which was evident against a snow covered background. The material had been discharged via a road application process by personnel of Magna. The unpermitted discharge of contaminated water is a violation of the Wyoming Environmental Quality Act (Act) and the Wyoming Water Quality Rules and Regulations (WWQRR).

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 violation as follows:

1. Magna should inform the WQD of the steps taken to prevent this type of an unpermitted discharge from occurring again in the future. This information should be received by the WQD within 21 days of the date of this letter.

The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by Magna.

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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Magna Energy Service

January 20, 2009

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If Magna wishes to pursue resolution of the previously noted violation through such an agreement, please contact Mr. Kevin M. Wells, WYPDES Compliance & Enforcement Program Coordinator at (307) 777-8669, or Mr. Brian K. Lovett, WYPDES Inspection & Compliance Supervisor at (307) 777-5630, within 21 days to discuss resolution to this matter.



John V. Corra
Director
Department of Environmental Quality



John F. Wagner
Administrator
Water Quality Division

JVC/JFW/KMW/bb/rm/9-0048

Enclosure: Notice of Violation
12/11/08 Initial Pollution Incident Report
12/16/08 DEQ Photo Documentation of the impacted site

cc: Lee Hanley, 8ENF-W-NP, EPA Region 8 (PDF)
James B. Eisenhauer, WYPDES Inspection Coordinator, Sheridan DEQ Office (PDF)
Bill DiRienzo ► Brian K. Lovett ► Leah J. Krafft (PDF)
IPS (for scanning) ► Docket 4415-09
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:)**

**Magna Energy Service)
PO Box 1024.)
Gillette, WY 82717)
)
)
)**

DOCKET NUMBER 4415-09

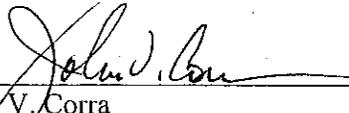
NOTICE OF VIOLATION

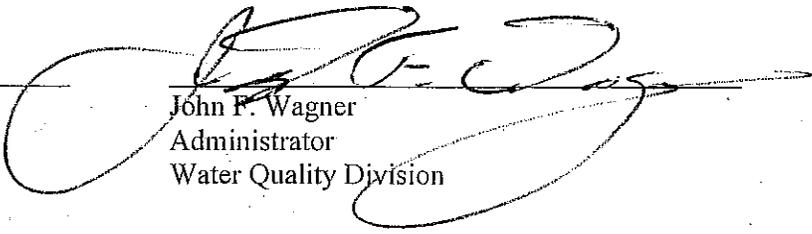
NOTICE IS HEREBY GIVEN THAT:

1. Magna Energy Service (Magna) is a diversified oil and gas services business serving the Powder River Basin from its operations base in Campbell County, Wyoming.
2. On December 11, 2008 the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) received notification that Magna had road applied production water containing black sludge and coal fines along the barrow pit of a county road in Campbell County. DEQ records indicate that Magna has not obtained the required permit authorization to allow for this discharge.
3. On December 16, 2008 DEQ completed a site inspection of the impacted site and confirmed that a substance containing a black sludge and coal fines had been discharged into the barrow pit and entered an unnamed drainage, tributary to Barber Creek (class 3B) which is tributary to the Powder River (class 2ABWW), which are "waters of the state" as defined under W.S. 35-11-103 (c)(vi). Sludge and coal fines are "pollution" as defined in W.S. 35-11-103(c)(i);
4. By discharging pollution into waters of the state, Magna 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;
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, 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 27 day of JAN, 2009


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 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/bb/rm/9-0048

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