



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

March 3, 2010

Mr. Sean Mullett
J. M. Huber Corporation
2266 North Main Street
Sheridan, WY 82801

RE: Notice of Violation, Docket Number 4637-10

Dear Mr. Mullett:

Enclosed is a copy of Notice of Violation, Docket Number 4637-10, for the unauthorized discharge of coal bed methane (CBM) produced water into waters of the state by J. M. Huber Corporation (Huber). On February 18, 2010 the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) received correspondence from Huber indicating that based on their "Assimilative Capacity Load Calculations" they were in exceedance of two load limits for December 2009 discharges. This 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. *Huber should ensure that CBM produced effluent load limits are not discharged in exceedance of the monthly permit requirements.*
2. *Huber should inform the WQD of the steps taken to prevent this type of an unauthorized discharge from occurring again in the future. This information should be received by the WQD within 21 days of the date of this letter.*

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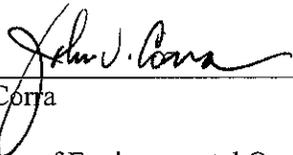
Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

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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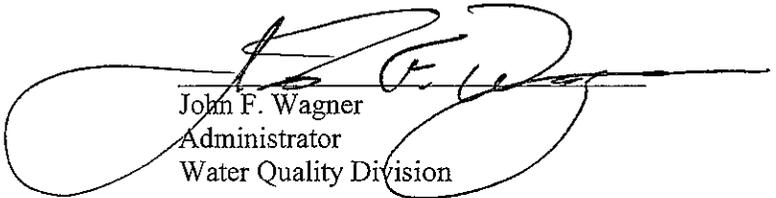


J. M. Huber Corporation
March 3, 2010
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The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by Huber. If Huber wishes to pursue resolution of the previously noted violation through such an agreement, please contact Mr. Kevin M. Wells, WYPDES Natural Resources Program Manager at (307) 777-8669, or Mr. Brian K. Lovett, WYPDES Natural Resources Program Supervisor at (307) 777-5630, within 21 days of the date of this letter 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/10-0167

Enclosure: Notice of Violation

cc: Lee Hanley, 8ENF-W-NP, EPA Region 8 (PDF)
James B. Eisenhauer, WYPDES Inspection Coordinator, Sheridan DEQ Office (PDF)
Bill DiRienzo ► Kevin M. Wells ► Kathy Shreve (PDF)
IPS (for scanning) ► Docket 4637-10
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:)

J. M. Huber Corporation)
2266 North Main Street)
Sheridan, WY 82801)
)
)
)

DOCKET NUMBER 4637-10

NOTICE OF VIOLATION

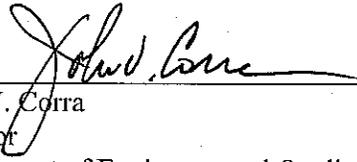
NOTICE IS HEREBY GIVEN THAT:

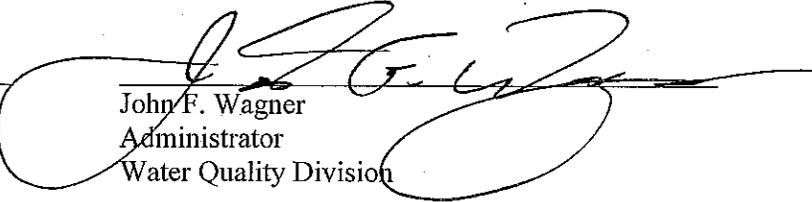
1. J. M. Huber Corporation (Huber) is the owner/operator of a coal bed methane (CBM) production facility located in the NW1/4 of the NW1/4 of section 5, Township 56 North, Range 74 West in Campbell County, Wyoming. The facility is referred to as SA Creek 2 and received authorization to discharge under WYPDES permit WY0047627 dated June 11, 2009.
2. A portion of the produced water from this facility will be discharged directly to the Powder River (class 2ABWW) and the remaining produced water will discharge to on channel reservoirs (class 3B) tributary to SA Creek (Class 3B).
3. On February 18, 2010 The Wyoming Department of Environmental Quality/Water Quality Division (WQD) received a letter from Huber describing their "Assimilative Capacity Load Calculations" for dissolved sodium (Na) and total dissolved solids (TDS) for the month of December 2009. According to the information submitted, Huber was in exceedance for the permitted limits of these effluent loads for the month of December. Permit requirements indicate the following load limits for the month of December as sodium having a load limit of 6,005 lbs/month and TDS having a load limit of 0 lbs/month.
4. The reported load limits submitted by Huber indicated a sodium load of 10,023 lbs/month and a TDS load of 5,452 lbs/month which are both violations of permit conditions for load limits in December. Part I.A.2.c states "*Actual monthly loads from the direct discharging outfalls must be equal to or less than the actual monthly load limits established in Part I. A.1.b of the permit; actual monthly loads from the direct discharging outfalls that are greater than the actual monthly load limits established in Part I.A.1.b of the permit will constitute a violation of the permit.*" These load exceedances are violations of the Wyoming Environmental Quality Act (Act) and the Wyoming Water Quality Rules and Regulations (WWQRR).
5. CBM produced water is considered "pollution" as defined in W.S. 35-11-103 (c)(i).
6. The Department of Environmental Quality has no record of authorization to discharge these load amounts for the observed location during the month of December under permit WY0047627.
7. By discharging pollution into waters of the state, Huber 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. 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 2 day of MARCH, 2010


John V. Corra
Director
Department of Environmental Quality


John F. Wagner
Administrator
Water Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Kevin M. Wells, WYPDES Natural Resources Program Manager 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/10-0167

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DEQ Director