



# 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 22, 2010

Mr. John Steir  
Storm Cat Energy  
1125 17<sup>th</sup> Street, Suite 2310  
Denver, CO 80202

*RE: Notice of Violation, Docket Number 4707-10*

Dear Mr. Steir:

Enclosed is a Notice of Violation, Docket Number 4707-10, for the unauthorized discharge of coal bed methane (CBM) produced water into waters of the state by Storm Cat Energy (Storm Cat). On July 5, 2010 the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) received information from a landowner indicating CBM produced water was flowing through his property via SA Creek from a reservoir owned and operated by Storm Cat. WYPDES permit WY0040282 requirements do not allow for CBM produced water to flow past the irrigation bypass upstream from the landowner. By allowing the water to flow past the irrigation bypass Storm Cat is in 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. *Storm Cat shall operate in compliance with the permit requirements as stipulated in WYPDES permit WY0040282.*
2. *Storm Cat shall 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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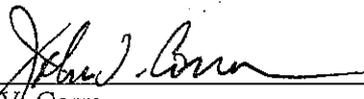
Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

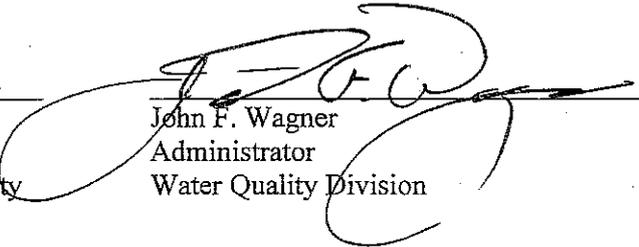
ADMIN/OUTREACH (307) 777-7937 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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*Storm Cat Energy*  
*July 22, 2010*  
*Page 2*

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

  
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John V. Corra  
Director  
Department of Environmental Quality

  
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John F. Wagner  
Administrator  
Water Quality Division

JVC/JFW/KMW/bb/10-0639

Enclosure: Notice of Violation

cc: David Gwisdalla, 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 4707-10  
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: )  
 )  
Storm Cat Energy )  
1125 17<sup>th</sup> Street, Suite 2310 )  
Denver, CO 80202 )  
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 )  
 )

DOCKET NUMBER 4707-10

**NOTICE OF VIOLATION**

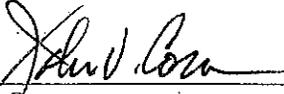
**NOTICE IS HEREBY GIVEN THAT:**

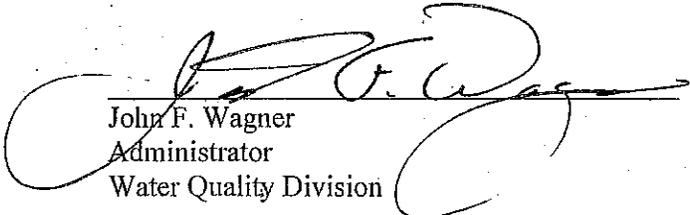
1. Storm Cat Energy (USA) Operating Corporation (Storm Cat) is the owner/operator of a coal bed methane (CBM) production water containment reservoir located in section 21, Township 56 North, Range 74 West in Campbell County, Wyoming. The reservoir is referred to as 21-1-56-74 and is associated with outfall 003 under WYPDES permit WY0040282. The reservoir is an "on-channel" reservoir in an unnamed ephemeral drainage that is a tributary to SA Creek (class 3B) which all are considered waters of the state.
2. Under WYPDES permit # WY0040282, Storm Cat is required to contain all effluent from outfall 003 in reservoir 21-1-56-74, unless prior written authorization is granted by the Wyoming Department of Environmental Quality/Water Quality Division (DEQ/WQD) for a reservoir release, in association with use of assimilative capacity credits for the Powder River Basin.
3. On June 23, 2010 the DEQ/WQD granted authorization # RR00097 to release from a number of Storm Cat reservoirs including 21-1-56-74 during the month of July, 2010. Under authorization RR00097, Storm Cat is specifically required to ensure that the total flow of SA Creek is effectively diverted through the pipeline diversion operated by J.M. Huber in Section 21, Township 57 North, Range 75 West.
5. Storm Cat began releasing water from Reservoir 21-1-56-74 on July 1 and continued releasing through July 3, 2010. DEQ was informed by Mr. Tooter Rogers on July 3, 2010, a downstream landowner, that water was bypassing the diversion and entering his property. On Monday, July 5, 2010, the DEQ/WQD received another complaint from Mr. Rogers that water was still flowing down SA Creek through his property due to the irrigation bypass (diversion) being "overwhelmed" by water from a discharge upstream.
6. DEQ personnel visited the landowner's property and site of the irrigation bypass on SA Creek on July 6, 2010 and documented that water had flowed past the diversion and onto the landowner's property via SA Creek. The landowner also provided photo documentation of water flowing down SA Creek on his property on July 3, 2010. Storm Cat Energy's failure to ensure that all SA Creek flows were effectively diverted around the Rogers' property during the reservoir release period constitutes a violation of the terms of Reservoir Release Authorization RR00097 which states: *"Reservoir Releases on SA Creek are subject to the available capacity of the irrigation bypass operated by J.M. Huber Corporation. The applicant named herein is responsible for communication [sic] J.M. Huber to ensure that the total flow of SA Creek is effectively diverted during the reservoir release period."*
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 9 day of August, 2010

  
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John V. Corra  
Director  
Department of Environmental Quality

  
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John F. Wagner  
Administrator  
Water Quality Division

**PLEASE DIRECT ALL INQUIRIES TO:** Kevin M. Wells, WYPDES Natural Resource Program Manager at the 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/10-0639

cc: David Gwisdalla, 8ENF-W-NP, EPA Region 8 (PDF)  
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DEQ Director