Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Matthew H. Mead, Governor

Todd Parfitt, Director

CRRR: 7012 2210 0001 4162 3451

October 14, 2013

Mr. John Lucas
FMC Corporation
P.O. Box 872
Green River, WY 82935

RE: Notice of Violation, Docket No. 5199-13, FMC-Granger, LQD Permit 454

Dear Mr. Lucas:

Enclosed is a Notice of Violation, Docket No. 5199-13 issued to FMC Granger for the unauthorized discharge from the south site containment pond to the ephemeral drainage Bagley Draw, a tributary to the Blacks Fork River, which is a tributary to the Green River (Class 2AB). This is a joint NOV being issued by both the Land Quality division and the Water Quality Division. The Notice of Violation is based on reporting provided to the Department by FMC and a follow-up inspection conducted by Amy Boyle (LQD) on September 30, 2013. The unauthorized discharge is a violation of the Wyoming Environmental Quality Act and the Wyoming Water Quality Rules and Regulations.

The Wyoming Department of Environmental Quality / Land Quality Division (WDEQ/LQD) has the authority to resolve violations with an out-of-court settlement agreement which would outline corrective measures and a penalty payable by FMC. If FMC wishes to pursue resolution of this violation through such an agreement, please contact Ms. Tanya King, WDEQ/LQD District II Supervisor at 307-335-6758 **within fifteen (15) days** of receipt of this letter to schedule a meeting to resolve this matter. A settlement agreement will be signed by both parties.

Should you have any questions, please contact Ms. Tanya King.

Respectfully,

Todd Parfitt
Director
Department of Environmental Quality

Nancy Nuttbrock
Administrator
Land Quality Division

Kevin Frederick
Administrator
Water Quality Division

Enclosure: Notice of Violation, Docket No. 5199-13
cc: LQD / Cheyenne
T. King / Lander

BEFORE THE

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION ISSUED TO:	)	
FMC Corporation **P.O. Box 872** **Green River, Wyoming 82935**	)	**DOCKET NUMBER 5199-13** **LQD Permit Number: 454**

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. FMC Corporation (FMC) is the owner/operator of FMC Granger trona mining and soda ash production operations located in Township 19 North, Range 111 West, Township 20 North, Range 109 West, Township 20 North, Range 110 West, Township 20 North, Range 111 West, and Township 21 North, Range 110 West, Sweetwater County, Wyoming. The Land Quality Division Mine Permit 454 was issued on May 18, 1977;

2. On September 27, 2013, FMC reported a breach of their south site containment pond releasing approximately 72,000 gallons (1,714 barrels) of stormwater runoff and process wastewater into Bagley Draw, a tributary to the Blacks Fork River, which is a tributary to the Green River (a class 2AB water);

3. An unpermitted discharge occurred between approximately 11:00 AM until 12:30 PM on September 27, 2013, a duration of approximately 90 minutes. Following a significant precipitation event of snow and rain between September 26 and September 27, 2013, runoff to the pond caused the pond to overflow. A secondary earthen berm between the containment pond and a facility road had been breached by a loader in April 2013 when the pond was in the process of being cleaned out. The contractor was unable to complete the work for the bid price and pulled off the job until additional money could be appropriated. The breach in the secondary berm had not been replaced. The overflow from the pond passed through the breach along two flow paths to Bagley Draw. Bagley Draw, an ephemeral drainage, was flowing due to the recent precipitation. The flow rate exiting the pond was estimated conservatively to be 800 gpm. Heavy equipment was used to repair the berm, stopping the flow to Bagley Draw at 12:30 PM;

4. Testing of the wastewater conducted by FMC resulted in a pH of 10.4 standard units (s.u.), a conductivity of 4,350 µS/cm and a percent Total Alkalinity of 0.30. An upstream sample of Bagley Draw measured a pH of 9.9 and conductivity of 831 µS/cm;

5. Failure to follow the approved LQD mine permit by containing process water and stormwater is a violation of W.S. 35-11-415(b)(ii) and 35-11-415(b)(viii);

6. The discharge of process wastewater to waters of the state is not authorized under any Department of Environmental Quality permit held by FMC from the locations referenced in the case described previously;

7. At the time of the event, Bagley Draw met the definition of "water of the state" as defined under W.S. 35-11-103 (c)(vi);

8. Process wastewater from FMC contains "pollution" as defined in W.S. 35-11-103 (c)(i);

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WDEQ LAWYER

9. By discharging pollution into waters of the state, FMC is in violation of W.S. 35-11-301 (a)(i) of the Wyoming Environmental Quality Act (Act) 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;

10. 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;

11. 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, as appropriate, 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 15th day of October, 2013.

Todd T. Parfitt
Director
Department of Environmental Quality

Kevin Frederick
Administrator
Water Quality Division

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Nancy Nuttbrock
Administrator
Land Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Amy Boyle, Project Geologist, Wyoming Department of Environmental Quality, Land Quality Division, 510 Meadowview Dr., Lander, WY 82520. Telephone (307) 335-6941. **OR** Kevin Wells., WYPDES Compliance Supervisor, Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

cc: Kevin Wells / Cheyenne WQD
Amy Boyle / Lander LQD
NOV Docket 5199-13

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