



# 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

**CERTIFIED MAIL**

December 12, 2014

**Western Biomass Energy, LLC  
525 University Loop, Ste. 111  
Rapid City, SD 57701**

***RE: Notice of Violation and Intent to Terminate, Docket Number 5304-14***

To whom it may concern:

Enclosed is a copy of Notice of Violation and Intent to Terminate, Docket Number 5304-14 issued to Western Biomass Energy, LLC (permittee) for failure to pay the required fees for your WYPDES discharge permit(s) which have been issued by the Wyoming Department of Environmental Quality/Water Quality Division. Failure to pay the required fee(s) 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. Permittee shall submit total payment of all fees owed, as indicated in the attached invoice issued to this company, within thirty-five (35) days from the mailing of this notice. Please include the invoice number on your check when submitting payment.

The WQD has the authority to resolve violations with an out-of-court settlement agreement with the payment of the permit fees by the permittee. Please submit payment to The Wyoming Department of Environmental Quality/ Water Quality Division. **Failure to pay the fees will result in termination of the permit(s) and possible elevated enforcement action.**

Todd Parfitt  
Director  
Department of Environmental Quality

Kevin Frederick  
Administrator  
Water Quality Division

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

ADMIN/OUTREACH (307) 777-7758 FAX 777-7682	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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***Western Biomass Energy, LLC***  
***December 12, 2014***  
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**Enclosure:      Notice of Violation**  
**2013 WYPDES PERMIT FEE INVOICE**

**cc:                 Bill J. DiRienzo ► Kevin M. Wells (PDF)**  
**IPS (for scanning) ► Docket 5304-14**  
**Landon Brown, DEQ Admin (PDF File Only)**  
**Connie Osborne, DEQ Admin (Hard Copy)**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**STATE OF WYOMING**

**IN THE MATTER OF THE NOTICE OF )  
VIOLATION AND OF INTENT )  
TO TERMINATE ISSUED TO: )  
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**Western Biomass Energy, LLC  
525 University Loop, Ste. 111  
Rapid City, SD 57701**

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**DOCKET NUMBER 5304-14**

**NOTICE OF VIOLATION AND OF INTENT TO TERMINATE AUTHORIZATION TO DISCHARGE UNDER WYOMING POLLUTION DISCHARGE ELIMINATION SYSTEM (WYPDES) PERMITS.**

Western Biomass Energy, LLC is the owner and operator of Industrial Stormwater facilities in Wyoming, which are permitted to discharge under the Wyoming Pollution Discharge Elimination System (WYPDES). W.S. 35-11-312 provides the Department of Environmental Quality the authority to implement a surface water point source discharge fee system for each WYPDES permit and permit authorization. All operators with active individual permits or general permit authorizations issued prior to July 1, 2013 were sent an invoice in August 2013 describing fees owed for current permits including any past fees owed. All invoiced permit fees were to be paid in full by December 31, 2013.

PURSUANT TO W.S. 35-11-701(c) & W.S. 16-3-113(c), NOTICE IS HEREBY GIVEN THAT:

Western Biomass Energy, LLC is in violation of W.S.35-11-312 for failure to pay its WYPDES permit fees for current or past individual permits and/or general permit authorizations. The amount due for each permit issued to Western Biomass Energy, LLC is provided in the attached invoice. Under Chapter 2, Section 13(a) of the Wyoming Water Quality Rules & Regulations, the Wyoming Department of Environmental Quality (DEQ) may terminate a permit or authorization for violation of any term or condition of the permit. The DEQ intends to proceed with termination of the invoiced permits and/or general permit authorizations unless Western Biomass Energy, LLC shows compliance with the referenced permit fee requirement by paying the full amount of the invoice within thirty-five (35) days from the mailing date of this Notice.

**Payment shall be made to the Wyoming DEQ/WQD, 122 W. 25<sup>th</sup> Street, Herschler Bldg, 4<sup>th</sup> Floor West, Cheyenne, Wyoming, 82002 and reference the invoice number with the payment.**

Upon termination of any permit or authorization, the operations covered by that permit or authorization must immediately cease. Continuing to operate an un-permitted facility is a violation of W.S. 35-11-301 and may subject you to additional penalties of up to \$10,000 per day for each day of operation.

The termination of its permit or authorization will not relieve Western Biomass Energy, LLC from the requirement to pay all assessed permit fees up to the date of termination.

The termination of its permit will not relieve Western Biomass Energy, LLC from any reclamation obligation. Western Biomass Energy, LLC will be required to complete the reclamation requirements of the permit at the time the permit is terminated.

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.

DATED this 12th day of December, 2014



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Todd Parfitt  
Director  
Department of Environmental Quality



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Kevin Frederick  
Administrator  
Water Quality Division

**PLEASE DIRECT ENFORCEMENT INQUIRIES TO:** Kevin M. Wells, WYPDES Natural Resource Program Supervisor, Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

**PLEASE DIRECT ALL PAYMENT INQUIRIES TO:** Marilyn Siemens, WYPDES Fee Clerk, Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Telephone 307-777-2592.

**Attachment: 2013 WYPDES Permit Fee Invoice**

cc: Kacy Sable, 8ENF-W-NP, EPA Region 8 (PDF)  
Bill DiRienzo ► Kevin M. Wells (PDF)  
NOV Docket 5304-14  
Connie Osborne, DEQ Admin (Hard Copy)  
Landon Brown, DEQ Admin (PDF)