

BEFORE THE
ENVIRONMENTAL QUALITY COUCIL
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)

Windsor Energy Group, LLC)
Sheridan Field Office)
PO Box 6497)
Sheridan, WY 82801)
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DOCKET NUMBER 4162-07

NOTICE OF VIOLATION
AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Windsor Energy Group LLC (Windsor) is the owner of a coal bed methane (CBM) facility called Beaver Creek Tietjen CBM Project located in Section 17, Township 54 North, Range 79 West, Sheridan County, Wyoming. Produced water from the facility is discharged to various named, on-channel (class 3B) and off-channel reservoirs (class 4C) located on several unnamed, ephemeral tributaries of Clear Creek (class 2AB), in the Powder River Basin.
2. Windsor notified the DEQ on October 4, 2007 of a reservoir breach at the Beaver Creek Tietjen CBM Project facility. The breach occurred at pit # 13-17 and is located at outfall 008 of WYPDES permit WY0054542. Before the breach an estimated 14 acre feet of water was present in the reservoir.
3. The cause of the breach is not known. The breach was not weather related. Personnel from Windsor visited the breached reservoir the night of October 3, 2007 and shut off discharge water to the pit. DEQ personnel visited the site on October 5, 2007 and completed an inspection of the breach and affected areas resulting from the released CBM water. Approximately 10 acre feet (3,258,514 gallons) of produced water and sediment were released from the pit. The released material traveled down Town Draw and continued along a railroad track embankment just outside of Clearmont, Wyoming.
4. Part I.A.3 of WYPDES permit WY0054542 states "*This permit prohibits discharge of effluent from the reservoirs except in the event of a 100-year/24 hour precipitation event or greater.*" By discharging from the reservoir in the absence of a 100 year/ 24 hour storm event Windsor is in violation of WYPDES permit WY0054542.
5. On October 10, 2007 the DEQ conducted an inspection of the Beaver Creek FKCC project site and observed numerous concerns regarding non-existent, ineffective, or poorly maintained erosion and sediment controls. **This is a violation of Part 7.2.4.1.4 of the Large Construction General Storm Water permit for failing to properly install and maintain all Best Management Practices (BMPs) and Part 8.5 Recovery of offsite sediment.** "*If any measurable quantity of sediment leaves the construction site because of structural failure or inadequate design of the BMPs, the sediment shall be placed back on site or properly disposed of, as soon as is prudent. Under no conditions shall the sediment be washed into municipal storm sewers or surface waters of the state.*" This is also a violation of Water Quality Rules and Regulations Chapter 1, Section 15. *Settleable Solids: In all Wyoming surface waters, substances attributable to or influenced by the activities of man that will settle to form sludge, bank or bottom deposits shall not be present in quantities which could result in*

significant aesthetic degradation, significant degradation of habitat for aquatic life or adversely affect public water supplies, agricultural or industrial water use, plant life or wildlife.

6. Erosion and sediment controls are not being installed and/or maintained, and inspections following storm events are not being conducted or documented. **Part 9.1.1 of the Large Construction General Storm Water Permit, Active construction sites states "During active construction inspections must be conducted in accordance with one of the two schedules listed in the permit, unless the project has an alternate inspection schedule approved by the administrator."** These are all violations of the Large Construction General Storm Water Permit.
7. 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;

ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL – STATE OF WYOMING

WHEREFORE IT IS HEREBY ORDERED THAT:

1. Windsor shall immediately cease all discharge from outfall 008 and shall receive WQD approval prior to resuming discharge from this outfall.
2. Windsor shall notify the WQD of their proposed course of action to address outfall 008. This information shall be received by the WQD no later than 60 days after the receipt of the NOV by Windsor. Windsor shall receive approval of the proposed action from WQD prior to implementation.
3. Windsor shall inspect and assess all reservoirs under their operation and provide WQD with a report of concerns identified and actions proposed to remedy identified concerns. This information shall be received by the WQD no later than 120 days after the receipt of the NOV by Windsor.
4. Windsor shall maintain storm water BMPs throughout the life of the project to ensure no sedimentation enters a water of the state and implement maintenance procedures for the BMPs. *"BMPs mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage."*

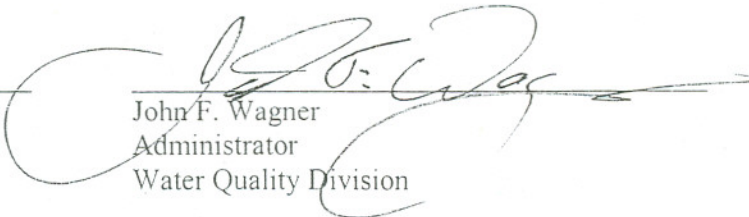
This ORDER is final unless, no later than ten (10) days after the date this notice is received; it is appealed by filing a written request for a hearing before the Environmental Quality Council. If a hearing is requested, the hearing petition shall be mailed to the Chairman, Wyoming Environmental Quality Council, Room 1714 Herschler Building, 1st Floor West, 122 West 25th St., Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of the Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th St., Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

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NOTHING IN THIS NOTICE OF VIOLATION (NOV) AND ORDER shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV AND ORDER be interpreted as being a condition precedent to any other enforcement action.

Signed this 2 day of NOV, 2007.


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, 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/cs/7-0929

cc: Aaron Urdiales, 8ENF-W-NP, EPA Region 8 (PDF)
Jim Eisenhauer, WYPDES Inspection Program Coordinator (PDF)
Bill DiRienzo ► Brian K. Lovett ► Leah J. Krafft ► Barb Sahl
Keith Guille, Information Officer
NOV Docket 4162-07
Environmental Quality Council
Director, DEQ