



# 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

07-3200

John Corra, Director

CERTIFIED MAIL

June 3, 2005

**FILED**

JAN 19 2007

Mr. Brad Gelbaugh  
Managing Member  
Northwest Energy, LLC  
PO Box 506  
Buffalo, WY 82834-0506

Terri A. Lorenzon, Director  
Environmental Quality Council

*RE: Notice of Violation, Docket Number 3755-05*

Dear Mr. Gelbaugh:

Attached is a Notice of Violation and Order, Docket Number **3755-05**, issued to Northwest Energy, LLC (Northwest), for violation of WYPDES permit WY0043923. The permit requires all outfalls to be constructed at least a quarter mile (1320 feet) from the nearest, outermost alluvium, and at least 500 feet away from any bank to bank ephemeral stream channel. The constructed location of the reservoir associated with outfall 001 of WYPDES permit WY0043923 is on-channel and not off-channel in violation of permit conditions.

**ANY APPEALS TO THE ENVIRONMENTAL QUALITY COUNCIL FROM THE ATTACHED ORDER MUST BE MADE IN WRITING WITHIN THE TEN (10) DAY TIME LIMIT PRESCRIBED BY W.S. 35-11-701(c).** Chapter I, Section 3 of the enclosed Department of Environmental Quality Rules of Practice and Procedure sets forth the requirements for the initiation of appeal proceedings. You are urged to review all of the provisions of the attached Rules of Practice and Procedures as they relate to this action.

To appeal this Order and request a hearing, you must file two (2) copies of your written petition. The first petition shall be mailed to the Chairman of the Environmental Quality Council, Room 1714, Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. The second petition should be sent to John V. Corra, Director, Wyoming Department of Environmental Quality, Herschler Building, 4<sup>th</sup> Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.


THIS SPACE INTENTIONALLY LEFT BLANK


Page L-1



Northwest Energy, LLC  
June 3, 2005  
Page L-2

**PLEASE DIRECT ALL INQUIRIES TO:** Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator, 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.

  
John V. Gorra  
Director  
Department of Environmental Quality

  
John F. Wagner  
Administrator  
Water Quality Division

JVC/JFW/BRB/MB/bb/5-0627.LTR

Enclosure: Notice of Violation

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8  
James B. Eisenhauer, WYPDES Inspection Coordinator  
Todd T. Parfitt ► Brian K. Lovett ► Leah J. Krafft ► Brian R. Bohlmann  
NOV Docket 3755-05  
Environmental Quality Council  
Director, DEQ

BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

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

Northwest Energy, LLC )  
PO Box 506 )  
Buffalo, WY 82834-0506 )

DOCKET NUMBER 3755-05

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Northwest Energy, LLC (NWE) is the owner/operator of coal bed methane (CBM) facility called the Wild Horse Project located in the NENW Quarter, Section 19, Township 54 North, Range 76 West (NENW Qtr., Sec 9, T54N, R76W), Campbell County, Wyoming;
2. WYPDES permit WY0043923 allows NWE to discharge CBM produced water into two off-channel reservoirs within the Wild Horse Project. The permit was issued on August 2<sup>nd</sup>, 2001 and expires on June 30<sup>th</sup>, 2006. All discharged water is to be contained within the reservoirs, and the reservoirs are to be located at least a quarter mile (1320 feet) from the nearest, outermost alluvium, and at least 500 feet away from any bank to bank ephemeral stream channel;
3. In January 2003 NWE took over operations of the Wild Horse Project from Federated Oil and Gas (Federated). At the time the permit was transferred from Federated to NWE the reservoir was already constructed and in use;
4. In a letter from JLM Engineering, Inc. (JLM) dated February 28, 2005, over two (2) years after the permit was transferred from Federated to NWE, the Department of Environmental Quality, Water Quality Division (DEQ/WQD) was informed that the constructed location of the reservoir associated with outfall 001 of WYPDES permit WY0043923 is on-channel and not off-channel. WYPDES permit WY0049293 is an option 1 permit that establishes effluent limits at the end of pipe which are protective of class 4 standards. Due to the constructed location of the reservoir, an option 1 permit is not appropriate;
5. The reservoir was constructed in an un-named ephemeral tributary to Wild Horse Creek. This is a violation of Part I.A.1. of WYPDES permit WY0049293 which states “... *All CBM produced water shall be totally contained within the closed basin, Playa or reservoir and not flow into any other water of the state. ...*”;
6. 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**

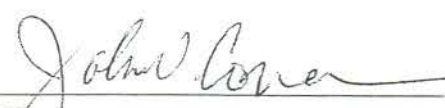
**WHEREFORE IT IS HEREBY ORDERED THAT:**


1. Northwest Energy, Inc. (NWE) shall immediately stop all CBM produced water discharges through outfall 001 of WYPDES permit WY0043923.
2. Prior to future discharges from outfall 001 of WYPDES permit WY0043923, NWE shall apply for a site specific permit for an on-channel reservoir. The technically complete application shall be received by the WQD on or before July 15, 2005.
2. If NWE does not plan on using the reservoir associated with outfall 001 of WYPDES permit WY0043923, NWE shall submit a permit modification application to the WQD to modify the permit to remove outfall 001 from WYPDES permit WY0043923. The permit modification requesting the removal of outfall 001 from WYPDES permit WY0043923 shall be received by the WQD on or before June 30, 2005.

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, 1<sup>st</sup> Floor West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of the Environmental Quality, Herschler Building, 4<sup>th</sup> Floor West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

**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.

Ordered this 2nd day of June, 2005.

  
\_\_\_\_\_  
John V. Corra  
Director  
Department of Environmental Quality

  
\_\_\_\_\_  
John F. Wagner  
Administrator  
Water Quality Division

**PLEASE DIRECT ALL INQUIRIES TO:** Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator, 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/BRB/MB/bb/5-0627.ltr

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8  
James B. Eisenhauer, WYPDES Inspection Coordinator  
Todd T. Parfitt ► Brian K. Lovett ► Leah J. Krafft ► Brian R. Bohlmann  
NOV Docket 3755-05  
Environmental Quality Council  
Director, DEQ