



State of Utah

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Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

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Executive Director

DIVISION OF WATER QUALITY
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Executive Secretary

February 1, 2011

**CERTIFIED MAIL
(Return Receipt Requested)**

Darlene Burns
Uintah County Commission
147 East Main
Vernal, UT 84078

Dear Commissioner Burns:

Subject: Uintah County Commission, Notice of Violation & Order Docket No. M11-03

Transmitted herewith is a Notice of Violation from the Utah Water Quality Board for your immediate attention. If you have any questions regarding this notice, please contact John Kennington at (801) 536-4380 or email at jkennington@utah.gov.

Sincerely,

UTAH WATER QUALITY BOARD

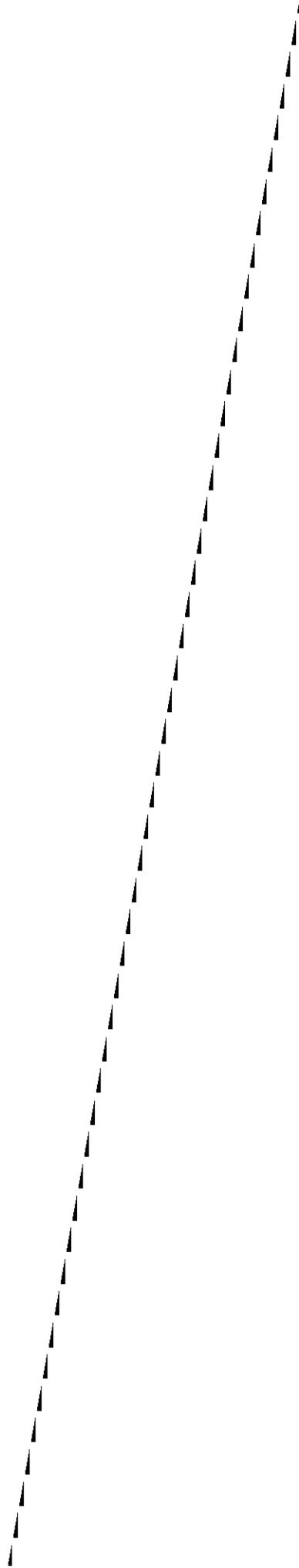
Walter L. Baker, P.E.
Executive Secretary

WLB:MH:mc

Enclosure

cc: Paul Mc Conkie, Assistant Attorney General (w/encl)
Stephanie Gieck, U.S. EPA Region VIII (w/encl)
Darrin Brown, Tricounty Health Department (w/encl)
Scott Hacking, District Engineer (w/encl)

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Uintah County Commission 147 E Main Vernal, UT 84078	NOTICE OF VIOLATION AND COMPLIANCE ORDER DOCKET NO. M11-03

A. STATUTORY AUTHORITY

This **NOTICE OF VIOLATION and COMPLIANCE ORDER (NOV/CO)** is issued by the **UTAH WATER QUALITY BOARD (the BOARD)** under the Utah Water Quality Act, as amended, Utah Code Ann. §§ 19-5-101 to 19-5-123 (the **ACT**), including Utah Code Ann. §§ 19-5-104, 19-5-106, 19-5-111 and 19-5-115. This **NOV/CO** is also issued in accordance with the Utah Administrative Procedures Act, Utah Code Ann. §§ 63G-4-101 to 63G-4-601. The **BOARD** has delegated to the Executive Secretary of the **BOARD (EXECUTIVE SECRETARY)** authority to issue such **NOTICES AND ORDERS** in accordance with 19-5-106(8) of the Utah Code.

B. APPLICABLE STATUTORY AND REGULATORY PROVISIONS

1. It is unlawful for any person to discharge a pollutant into Waters of the state, unless the discharge is authorized by permit, Utah Code Ann. § 19-5-107(1)(a). Waters of the state means “all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state.”, Utah Code Ann. § 19-5-102(18)(a). See also Utah Admin. Code R 317-1-1.34.
2. It is unlawful for any person to make any discharge not authorized under an existing valid discharge permit, Utah Code Ann. § 19-5-107(3)(a). See also Utah Admin. Code R317-1-2.1
3. It is unlawful for any person to discharge a pollutant into Waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water”. It is also unlawful “to place or cause to be placed any wastes in a location where there is probable cause to believe it will cause pollution, Utah Code Ann. § 19-5-107(1)(a).
4. Utah Admin. Code R 317-2-7.1 prohibits any person from discharging, or placing “...any wastes or other substances, in a manner that may interfere with water’s designated uses protected by assigned classes or to cause any of the applicable standards to be violated...”.

5. Utah Admin. Code R 317-2-7.2 prohibits any person from discharging or placing "...any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste; or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures."

C. FINDINGS OF FACT

1. **WESTERN ENERGY OPERATING, LLC** (hereinafter "**WESTERN**") operates an oil production site located near Vernal, Uintah County, Utah. **WESTERN** has a Utah Pollutant Discharge Elimination System (UPDES) Permit No. UT0000035 which allows and controls wastewater discharge from the treatment facility.
2. In the course of normal operations, water is often extracted along with crude oil and must be separated from the crude oil product. This water is termed "produced water" and is treated and discharged subject to UPDES Permit No. UT0000035.
3. The approved treatment process under UPDES Permit No. UT0000035 includes a series of oil and water separators including a series of ponds. Removal of produced water prior to full treatment through the oil and water separators and pond series results in partially treated produced water. As a result, the produced water that is removed prematurely is not fully treated in accordance with UPDES Permit No. UT0000035.
4. **UINTAH COUNTY** (hereinafter the "**COUNTY**") utilizes partially treated "produced water" from the **WESTERN** facility for various maintenance functions including de-icing numerous road drainage culverts over a large area of the county. These culverts are part of a stormwater drainage system that convey Waters of the state; many of which eventually drain into live watercourses. The partially treated produced water is considered to be directly discharged to Waters of the state. Based upon interviews with county personnel, this has been the practice for many years.
5. On January 10, 2011 **COUNTY** personnel were observed discharging the partially-treated produced water into a road storm water drainage ditch/culvert approximately 100 meters south of the intersection of 1500 North and 500 West near Vernal, Utah. It is estimated that approximately 1,000 gallons of produced water was discharged in this instance. It traveled for approximately 75 - 100 yards in the ditch channel on top of the frozen water surface until it froze. This discharge caused a nuisance odor for approximately 1/4 mile from the site.

6. Production water from the withdrawal location used by the **COUNTY** at the **WESTERN** facility was sampled on January 12, 2011. The sample violated Utah Secondary effluent limits for biochemical oxygen demand (BOD). The sample also violated the **WESTERN** facility's UPDES permit limit for Oil and Grease effluent concentration. This sample is considered to be representative of the partially-treated well production water typically drawn and used by **COUNTY** personnel.

D. VIOLATIONS

Based on the foregoing **FINDINGS OF FACT**, the **COUNTY** has violated the following:

1. Utah Code Ann. § 19-5-107(3) for discharging a pollutant into Waters of the state, not authorized under an existing valid discharge permit as listed and described in the **FINDINGS OF FACT** paragraphs C. 2 and C. 4.
2. Utah Code Ann. § 19-5-107(1)(a) for discharging "...a pollutant into Waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, or placing or causing to be placed any wastes in a location where there is probable cause to believe that it will cause pollution.", as listed and described in the **FINDINGS OF FACT** paragraph C. 4.
3. Utah Admin Code R 317-1-3.2 for discharging wastes from point sources to any water of the State without providing treatment which produces secondary quality effluent as described in **FINDINGS OF FACT** paragraphs C. 2 and C. 5.
4. Utah Admin Code R 317-2-7.2 for discharging or placing "...any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste; or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures." as listed and described in **FINDINGS OF FACT** paragraph C. 2, C. 3, and C. 4.

E. ORDER

Any compliance schedules submitted by the *violator* as required by this **ORDER** must be submitted for approval by the **EXECUTIVE SECRETARY** by the deadlines established in this **ORDER**. Once compliance schedules are approved by the **EXECUTIVE SECRETARY**, the compliance schedule must be implemented according to the deadlines and requirements established in the compliance schedule(s)

and/or this **ORDER**. Once approved, timeframes and requirements of any compliance schedule become binding on the *violator*.

Based on the foregoing **FINDINGS OF FACT** and **VIOLATIONS**, and pursuant to Utah Code Ann. § 19-5-107 and § 19-5-111, the **COUNTY** is hereby **ORDERED** to:

1. Immediately initiate all action required to come into compliance with all applicable provisions of the Utah Water Quality Act and the Water Quality rules in the Utah Administrative Code.
2. Immediately cease and desist all un-permitted discharges of pollutants into Waters of the state.
3. Submit to the **EXECUTIVE SECRETARY**, within 30 days of receipt of this NOV/CO, a report which includes, but is not limited to the following:
 - a. An account of the conditions and events leading up to, and surrounding the un-permitted discharges described above,
 - b. Actions taken to remedy the situation surrounding the un-permitted discharges, and precautions taken to prevent future releases,
 - c. The current condition and status of the releases,
 - d. Any documented or reported damages to the water body or beneficial uses thereof,
 - e. Report any un-permitted discharges not identified above,
 - f. A plan to remediate any residual contaminants or damage from the spill, if any such still exist.

F. NOTICE

This **NOV/CO** is effective immediately. The **COUNTY** may contest this **NOV/CO** by submitting a Request for Agency Action in writing as specified in Utah Admin. Code R 317-9-3. Any such request must be received by the Executive Secretary within 30 days of the **NOV/CO**'s issuance or the **NOV/CO** shall become final.

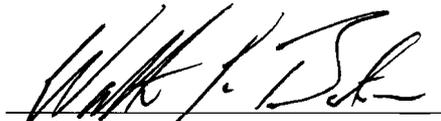
Compliance with the provisions of this **ORDER** is mandatory. The information requested will be considered in the evaluation of the extent of your compliance with the Water Quality Act and its underlying regulations and permit. Failure to respond fully and truthfully, or to adequately justify such failure to respond may subject the **COUNTY** to further civil penalties or criminal fines under Utah Code Ann. § 19-5-115.

All reports required under the Permit must be accompanied by the following certification, which is to be signed in accordance with Utah Admin. Code R 317-8-3.4(4): *"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system, or those persons directly responsible*

for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.”

Utah Code Ann. § 19-5-115 provides that violation of the ACT or a related order may be subject to a civil penalty of up to \$10,000 per day of violation. Under certain circumstances of willfulness or gross negligence, violators may be fined up to \$25,000 per day of violation.

Signed this 1 day of February, 2011
Utah Water Quality Board


Walter L. Baker, P.E.
Executive Secretary

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