



State of Utah

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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 10, 2011

CERTIFIED MAIL
(Return Receipt Requested)

Mr. Paul Hannah, Operations Manager
Western Energy Operating, LLC
439 North Conwell Street
Casper, WY 82601

Dear Mr. Hannah:

Subject: Western Energy Operating, LLC
Notice of Violation & Order Docket No. # 111-01

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 Mike Herkimer at (801) 536-4386 or mherkimer@deq.utah.gov.

Sincerely,

UTAH WATER QUALITY BOARD

Walter L. Baker, P.E.
Executive Secretary

WLB:JW:JK:mc

Enclosure(s):

cc: Denice Chancellor, Attorney General Office (w/encl)
Stephanie Gieck, Enforcements EPA Region VIII (w/encl)
Joseph B. Shaffer, Environmental Director, Tri County Health Department (w/encl)
Scott Hacking P.E., Tri-County District Engineer (w/encl)
Dan Jarvis, Division of Oil, Gas and Mining (w/encl)

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**Paul Hannah, Operations Manager
Western Energy Operating, LLC
439 North Conwell Street
Casper, WY 82601
UPDES Permit No. UT0000035**

**NOTICE OF VIOLATION AND
ORDER**

DOCKET NO. 111-01

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 through 19-5-124 (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 through 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 Utah Code Ann. § 19-5-106(8).

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(3)(a). See also Utah Admin. Code R317-1-1.1.34. 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).
2. 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).
3. "No person shall discharge wastewater or deposit wastes or other substances in violation of the requirements of these rules.", Utah Admin. Code R 317-1-2.1.
4. The permittee must comply with all conditions of their permit. Any permit non-compliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and re-issuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Executive Secretary of any planned changes in the permitted facility or activity

which may result in noncompliance with permit requirements, Part III.A of UPDES permit UT0000035.

5. Part I.B of UPDES permit UT0000035 states, "The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a UPDES permit are in violation of the *Act* and may be subject to penalties under the *Act*. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the *Act*."

Outfall Number

Location of Discharge Point

001

The discharge pipe from the final water retention pond prior to mixture with any receiving water at latitude N 40°22.007' and longitude W 109°24.887'."

C. FINDINGS OF FACT

1. Western Energy Operating, LLC (**WESTERN**) operates the Ashley Valley oil field facility for the production of oil. This facility is located in Uintah County near Jensen, Utah. This facility was issued UPDES permit No. UT0000035 with an effective date of May 1, 2009 and an expiration date of April 30, 2014.
2. An oily ground water (produced water) is also extracted from the well along with the hydrocarbon. The produced water is separated from the hydrocarbon, treated and then discharged to the Union Irrigation Canal in accordance with UPDES permit No. UT0000035.
2. The Ashley Valley oil field treatment facility consists of an oil/water separation tank followed by three open wastewater treatment ponds. The treated water is then discharged from the third open pond through an 18 inch culvert to the Union Irrigation Canal. This is the official discharge point for the UPDES permit UT0000035.
3. After the initial phase of treatment in the oil/water separation tank the partially treated wastewater is conveyed through an unrestricted open ditch to the three treatment ponds for the remaining treatment. This partially treated wastewater was taken by Uintah County Road Department personnel from the unrestricted open ditch to de-ice culverts in problem areas that are subject to flooding, throughout the county. This has been the procedure followed by county road personnel for several years.
4. A sample was obtained on Wednesday January 12th from this unrestricted open ditch in approximately the same location used by Uintah County Road Department personnel to obtain it's partially treated wastewater. This sample had the following results as compared to the UPDES permitted discharge limits:

Ditch sample

UT0000035 Permit Limits

Five day BOD: 45 mg/L

Five day BOD: 25 mg/L as a thirty day avg.
35 mg/L as a seven day avg.

Oil and Grease: 210 mg/L

Oil and Grease: 10 mg/L

D. VIOLATIONS

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

1. Utah Code Ann. § 19-5-107(1)(a) & (3)(a), Utah Admin. Code R317-1-2.1 for discharging wastewater that has not been fully treated to Waters of the state.
2. Part III.A and I.B of UPDES permit UT0000035 for discharge of wastewater not authorized by a UPDES permit.

E. ORDER

Any compliance schedules submitted by the *permittee* as required by this **ORDER** must be submitted by the deadlines established in this **ORDER** and approved by the **EXECUTIVE SECRETARY**. 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 equally binding on the *permittee*.

Based on the foregoing **FINDINGS OF FACT** and **VIOLATIONS**, and pursuant to Utah Code Annot. § 19-5-107 and 19-5-111, **WESTERN** 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. **WESTERN** must submit within thirty days of receiving this **NOV/CO** a response indicating the basis or reasons for its complicity in the use of its partially treated wastewater as indicated in this **NOV/CO**.
3. **WESTERN** must also submit within thirty days of receiving this **NOV/CO** a response as to how it will prevent future incidences of the use of partially treated wastewater as indicated in this **NOV/CO**, not only at this facility but at any other facilities it operates within the State of Utah.

F. NOTICE

This **NOTICE OF VIOLATION** and **COMPLIANCE ORDER (NOV/CO)** is effective immediately. **WESTERN** may contest this **NOV/CO** by submitting a Request for Agency Action in writing as specified in Utah Admin. Code R317-9-3. 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.

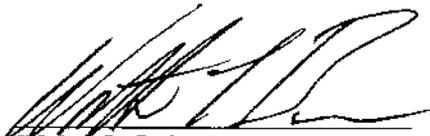
Compliance with the provisions of this **ORDER** is mandatory. The information requested will be considered in the evaluation of the extent of your compliance with the Water Quality Act, this **ORDER** and applicable administrative rules. Failure to respond fully and truthfully, or to adequately justify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

All responses required under the **NOV/CO** must be accompanied by the following certification, which is to be signed in accordance with UAC R317-8-3.4(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 criminal negligence, violators may be fined up to \$25,000 per day.

Signed this *10* day of February, 2011.

Utah Water Quality Board



Walter L. Baker, P.E.
Executive Secretary