



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

FILE COPY

JUN 19 2014

**CERTIFIED MAIL
(Return Receipt Requested)**

Rosanne Henshaw
SW Energy
847 East 400 South
Salt Lake City Utah

Dear Ms. Henshaw:

Subject: Notice of Violation and Order, Docket No. I14-08, SW Energy Corp.

Enclosed is a Notice of Violation and Order (Order), Docket Number I14-08, issued to SW Energy Corp. by the Utah Division of Water Quality (DWQ). This Order has been issued as a result of an illicit discharge (Incident Report No. 11822) to the Green River.

A response is required within 30 calendar days of receiving of this Order. After receiving the response to the NOV, DWQ will contact you with a proposed settlement agreement or to arrange a settlement meeting. Your cooperation with resolving this matter in a timely fashion is appreciated.

If you have any questions or wish to discuss anything related to the Order, please contact Ken Hoffman of this office at (801) 536-4313 or by e-mail at kenhoffman@utah.gov.

Sincerely,

Walter L. Baker, P.E.
Director

WLB:JR;jn

Enclosure - NOV

cc (w/encl): Amanda Smith, DEQ Executive Director (w/ encl)
Craig W. Anderson, Assistant Attorney General (w/ encl)
Stephanie Gieck, OECA EPA Region VIII (w/ encl)
Brady Bradford, Southeastern Health Department (w/ encl)
Dan Jarvis, DOGM Field Operations Manager (w/encl)
Beth Ransel, BLM Field Office, Moab UT (w/encl)
Chris Cline, USFWS (w/encl)

DWQ-2014-008432 & NOV - DWQ-2014-008433

Document Date 6/19/2014

DWQ-2014-008670

FILE COPY

UTAH DIVISION OF WATER QUALITY

SW ENERGY CORP. Government Smoot No. 3 Well 38°48'36.31"N, 110° 3'42.16"W IN GRAND COUNTY, UT	NOTICE OF VIOLATION AND ORDER DOCKET NO. 114-08
--	--

A. STATUTORY AUTHORITY

This **NOTICE OF VIOLATION and COMPLIANCE ORDER (NOV/CO)** is issued by the Director of the Utah Division of Water Quality (**DIRECTOR**) under the Utah Water Quality Act, as amended, Utah Code Ann. §§ 19-5-101 et seq. (the **ACT**), including Utah Code Annot. §§ sections 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 et seq. The **DIRECTOR** has authority to issue such **NOTICES AND ORDERS** in accordance with 19-5-106(2)(d) 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(23)(a). See also an identical definition at Utah Admin. Code § R317-1-1.31.
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).
3. Utah Admin. Code § R317-2-7.1 prohibits any person from discharging, or placing any wastes or other substances, in a manner that may interfere with water's designated uses, or to cause any of the applicable standards to be violated.
4. Utah Admin. Code § R317-2-7.2 prohibits any person from discharging, or placing any wastes or other substances, in a 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.
5. *UAC R317-2-13. Classification of Waters of the State* – Classifies the Green River as 1C, 2A, 3B, and 4.

6. *UAC R317-2-14. Numeric Criteria* – Lists numeric criteria for Waters of the State.

C. FINDINGS OF FACT

1. **SW Energy Cooperation (SW Energy)** is a natural gas and crude oil exploration, development, and production company. **SW Energy** operates an oil well named Government Smoot No. 3 located at 38°48'36.31"N, 110° 3'42.16"W in Grand County, UT.
2. **SW Energy** personnel reported to the Utah Division of Oil, Gas, and Mining the subject well was intact on May 20, 2014 at 5:00 pm.
3. On May 21, 2014 at 8:00 am, **SW Energy** personnel discovered an oil well discharging at approximately 80-100 barrels per hour of liquid primarily comprised of brine water from an open buried valve. The discharge reported to a drainage tributary to the Green River (Incident Report No. 11822). The discharged liquid did not reach the Green River on May 21 but formed small pools within the drainage.
4. By 5:00 pm on May 21, 2014, **SW Energy** had established two containment ponds to collect the continued discharge of liquids from the well.
5. On May 21, 2014, **SW Energy** mobilized crews to plug the well. The first attempt to plug the well failed on May 21. The well was successfully sealed by 3:00 pm on May 22, 2014.
6. During the night of May 23, 2014, a storm event occurred in the area of the well. The storm event caused the liquids pooled in the drainage to mobilize and discharge to the Green River.
7. On the morning of May 24, 2014, a citizen observed an oil sheen on the Green River at the Bowknot Bend.

D. VIOLATIONS

Based on the foregoing Findings of Fact, **SW ENERGY** has violated the following:

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).
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).

3. *UAC R317-2-7.1* for discharging substances that may interfere with water's designated uses, or to cause any of the applicable standards to be violated.
4. *UAC R317-2-7.2* for discharging substances that may cause the narrative standard to be violated.

E. ORDER

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

1. Immediately initiate all actions 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 (R-317).
2. Immediately cease and desist all unpermitted discharges.
3. Submit to the Director, within 60 days of receipt of this NOV/CO, an "Incident Response and Clean-Up Action Report" which includes, but is not limited to the following:
 - a. A detailed description of the initial release incident and **SW Energy's** response;
 - b. An estimate of the quantity of oil released and supporting calculations;
 - c. A description of the impact from the release to soils, groundwater, vegetation and biota;
 - d. A detailed explanation of the cause(s) of the release and what measures are being taken to prevent this type of release in the future;
 - e. A description of all clean-up actions taken to address the spill and associated impacts;
 - f. Site plans and maps of the area affected by the release including all soil boring and sampling locations;
 - g. Laboratory results for all soil sampling including post excavation confirmation soil samples;
 - h. Site plans and maps of the area affected by the release including all surface water and ground water locations;
 - i. Laboratory results for all surface water and ground water sampling activities;
 - j. Documentation of the proper disposal of wastes generated as a result of cleanup actions;
 - k. Any proposed on-going environmental monitoring plan for the affected area;
 - l. All future clean up actions necessary to complete final remediation of the site along with a compliance schedule for completing each action item; and,

- m. A description of **SW Energy's** future inspection and maintenance activities for oil wells, along with a schedule for those activities which will prevent future spills or releases from **SW Energy** oil wells.
4. **SW Energy** must submit a Final Clean-up Report to the Director for his approval within 60 days of the conclusion of clean-up of the spill site. A Final Clean-up Report for the impacted area must detail **SW Energy's** clean-up and remediation of the impacted area, including soils, groundwater, and any other impacts from the spill that were not previously included in the above noted "Incident Response and Clean-Up Action Report."
5. All letters of response, reports, plans and submittals made in accordance with this NOV/CO shall be certified by an authorized **SW Energy** representative as follows:

"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 a fine or imprisonment for knowing violations."

a.

F. NOTICE

This **NOTICE OF VIOLATION** and **COMPLIANCE ORDER (NOV/CO)** is effective immediately. **SW ENERGY** may contest this **NOV/CO** by submitting a request for Agency Action in writing as specified in Utah Admin. Code § R317-8-3. Any such request must be received by the **DIRECTOR** 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 **SW ENERGY** to further civil penalties or criminal fines under UCA 19-5-115.

Any compliance schedules submitted by the violator as required by this **Order** must be submitted by the deadlines established in this **Order** and approved by the **DIRECTOR**. Once compliance schedules are approved by the **DIRECTOR**, 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 violator.

UCA 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 19 day of June, 2014.

UTAH DIVISION OF WATER QUALITY



Walter L. Baker, P.E.
Director