

STATE OF COLORADO

Bill Ritter, Jr., Governor
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Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

November 30, 2009

Jim Cain
P.O. Box 1750
Canon City, CO 81215-1750

Certified Mail No.: 7007 0220 0001 0162 4659
Return Receipt Requested

Re: Warning Letter to Cotter Corporation
 AIRS ID 043-0021

Mr. Cain:

This Warning Letter provides notice to Cotter Corporation ("Cotter") related to compliance issues reported to and discovered by the Colorado Air Pollution Control Division ("Division") as required by Colorado Air Quality Control Commission Regulations.

On August 20, 2009, Ms. Elizabeth Pilson, of the Division, conducted a full compliance inspection of Cotter. Based upon a review of the inspection and other records, the Division has determined that Cotter is out of compliance with the following:

1. AIRS ID 043-0021-100 Permit No. 09FR0650

This emission point includes a onetime removal of material by truck/scrapper from the Old Pond Area and Munger's Mesa, and the associated transport and disposal of this material in the Secondary Impoundment.

Timeline:

6/16/09 - Cotter submitted an Air Pollutant Emissions Notice (APEN) for this project.

8/3/09 - Initial Startup of project.

9/17/09 - Construction Permit No. 09FR0650 was issued by the Division.

AQCC Regulation No. 3, Part B, §II.A.1 states:

Except where specifically authorized by the terms of this Regulation No. 3, no person shall commence construction of any stationary source or modification of a stationary source without first obtaining or having a valid construction permit from the division.

Cotter failed to obtain a construction permit prior to commencing construction of this project. This is a violation of AQCC Regulation No. 3, Part B, §II.A.1.

2. AIRS ID 043-0021(points 001-099) Permit No. 95FR803 Mod. 6 (Facility Wide Permit)

Permit Condition No. 13 states that a revised APEN is due no later than 30 days before the existing APEN expires (APENs expire five years from the date of submittal).

The APEN for the Large Dry Product Bin (AIRS ID 054) was due on 4/19/09 and the revised APEN was submitted on 6/16/09 (2 months late). Cotter failed to submit an APEN for the Large Dry Product Bin by 4/19/09, in violation of Permit No. 95FR803 Condition No. 13.

This letter constitutes a formal warning that Cotter operated in violation of Air Quality Control Commission Regulation No. 3, Part B, §II.A.1 and Construction Permit No. 95FR803 Condition No. 13. Please be aware that you are responsible for complying with State air pollution regulations and that there are substantial administrative and civil penalties for failing to do so. Section 25-7-122(1)(b), C.R.S., provides that any person failing to comply with an applicable emission control regulation of the Air Quality Control Commission shall be subject to a penalty of not more than Fifteen Thousand Dollars (\$15,000.00) per day for each day of such violation.

If you have any questions concerning this matter, contact me at (303) 692-3247.

Sincerely,

Elizabeth Pilson
Air Pollution Control Division
CO Department of Public Health and Environment
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cc: Bob Jorgenson, APCD (electronic copy)
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File