



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

John Corra, Director

July 18, 2008

Ms. Wendy Hutchinson,
Regulatory Affairs Manager,
Thunder Basin Coal Company, LLC
P.O. Box 406
Wright, WY 82732

RE: Notice of Violation

Dear Ms. Hutchinson:

Enclosed you will find a Notice of Violation (NOV) issued to Thunder Basin Coal Company, LLC by the Department of Environmental Quality, Air Quality Division, for failing to control fugitive dust from the haul roads at Black Thunder Mine as required by condition 7 of permit MD-295. These violations were observed by Ms. Judy Shamley, Air Quality Division Engineer on June 25, 2008.

As the Department and this Division consider the failure to comply with air quality permit requirements to be a serious matter, I am considering recommending the Department refer this violation to the State Attorney General's office requesting a suit be filed in District Court to recover appropriate penalties. If you would like to discuss settlement of this Notice of Violation prior to referral to the Attorney General's office, please contact Ms. Karen Godman, Air Quality Compliance Program Principal, at 307-777-8601 no later than ten (10) days after receipt of this letter.

Should you have any questions or comments regarding this matter, please feel free to contact me or Ms. Karen Godman.

Sincerely,

David A. Finley
Administrator
Air Quality Division

cc: Robert Gill
Tanner Shatto
Nancy Vehr
Keith Guille



**BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

**IN THE MATTER OF THE NOTICE OF VIOLATION)
ISSUED TO THUNDER BASIN COAL COMPANY, LLC,)
MS. WENDY HUTCHINSON,)
REGULATORY AFFAIRS MANAGER,)
P.O. BOX 406,)
WRIGHT, WY 82732)**

DOCKET NO. 4330-08

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found Thunder Basin Coal Company, L.L.C. (Thunder Basin) to be in violation of permit MD-295 issued in accordance with W.S. 35-11-801 of the Wyoming Environmental Quality Act and Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations in the operation of the Black Thunder Mine located in Campbell County, Wyoming.

2. W.S. 35-11-801 states, "In granting permits, the director may impose such conditions as may be necessary to accomplish the purpose of this act which are not inconsistent with the existing rules, regulations and standards."

3. Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations prescribes the applicability and procedures for issuing permits to sources under Wyoming's construction and modification permitting program.

4. Permit MD-295 was issued to Thunder Basin on November 18, 1996. Condition 7 of permit MD-295 states, "That all haul roads will be treated with suitable chemical dust suppressants in addition to water to control fugitive dust emissions. All treated road surfaces shall be maintained on a continuous basis to the extent that the surface treatment remains a viable control measure. Records of water truck operations, water usage, chemical usage, roads watered, roads treated, and other operational parameters shall be maintained such that an annual report on dust control measures can be filed with the Division in order to assess compliance with this condition..."

5. On June 25, 2008, Ms. Judy Shamley, Air Quality Division Engineer, observed a significant amount of dust generated by heavy haul truck traffic on the north end of the West Pit, just south of highway 450. Due to the significant amount of dust, Ms. Shamley observed operations for approximately seven minutes and no water truck was observed.

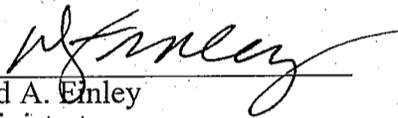
6. Said violation consists of the failure to control fugitive dust from the haul roads as required by condition 7 of permit MD-295.

7. Under W.S. 35-11-901(a), any person who violates any provision of Article 2 of

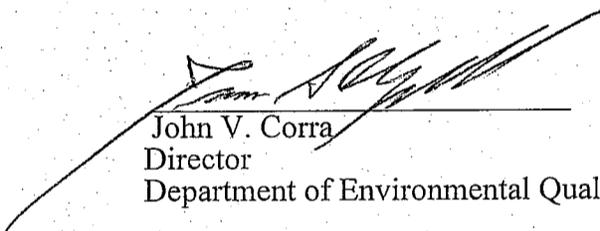
[the Environmental Quality Act] ... or any rule, regulation, standard or permit adopted pursuant to those provisions, or who violates any determination or order of the council pursuant to Article 2 of [the Environmental Quality Act] ... is subject to a penalty not to exceed ten thousand dollars (\$10,000.00) for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction.

8. This notice is being sent to you pursuant to W.S. 35-11-701(c), which requires that, in any case of 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.

DATED this 25th day of July, 2008.



David A. Finley
Administrator
Air Quality Division



John V. Corra
Director
Department of Environmental Quality

Please direct all inquiries to David A. Finley, Administrator, Division of Air Quality, Department of Environmental Quality, Herschler Building, 2nd Floor East, 122 W. 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307/777-7393)