



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

August 18, 2009

Ms. Lecia Craft, Environmental Engineer
Thunder Basin Coal Company, LLC
P.O. Box 406
Wright, WY 82732-0406

RE: Notice of Violation

Dear Ms. Craft,

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 as required by W.S. 35-11-201 of the Wyoming Environmental Quality Act, Chapter 3, Section 2(f) of the Wyoming Air Quality Standards and Regulations and various permits issued for the operation of the Black Thunder Mine. Based on high PM₁₀ measurement at the monitoring site associated with the Black Thunder Mine, the Air Quality Division has determined that Thunder Basin Coal Company, LLC has failed to take appropriate measures to control fugitive dust emissions from the mining operations.

As the Department and this Division consider the failure to comply with regulatory and 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
Nancy Vehr
Keith Guille
Tanner Shatto
Cara Keslar



**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. LECIA CRAFT, ENVIRONMENTAL ENGINEER
P.O. BOX 406
WRIGHT, WY 82732-0406**) **DOCKETNO. 4549-09**
)
)
)
)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found Thunder Basin Coal Company, LLC to be in violation of W.S. 35-11-201 of the Wyoming Environmental Quality Act, Chapter 3, Section 2(f) of the Wyoming Air Quality Standards and Regulations, and various permits issued in the operation of the Black Thunder Mine located in Campbell County, Wyoming.

2. W.S. 35-11-201 of the Wyoming Environmental Quality Act states, "No person shall cause, threaten or allow the discharge or emission of any air contaminant in any form so as to cause pollution which violates rules, regulations and standards adopted by the council."

3. Chapter 3, Section 2(f)(i)(A) of the Wyoming Air Quality Standards and Regulations states, "Any person engaged in clearing or leveling of land, earthmoving, excavation, or movement of trucks or construction equipment over access haul roads or cleared land shall take steps to minimize fugitive dust from such activities. Such control measures may include frequent watering and/or chemical stabilization." Chapter 3, Section 2(f)(ii)(A) of the Wyoming Air Quality Standards and Regulations states, "Any person owning, operating or maintaining a new or existing material storage, handling and/or hauling operation shall minimize fugitive dust from such operations. Such control measures may include the application of asphalt, oil, water or suitable chemicals on unpaved roads, material stockpiles and other surfaces which can give rise to airborne dust...."

4. Various permits issued for the Black Thunder Mine require implementation of fugitive dust control measures and installation and operation of an ambient particulate monitoring network.

5. During a recent review of Thunder Basin Coal Company's ambient particulate monitoring data for the 36 Monitor monitoring site associated with the Black Thunder Mine, the Air Quality Division determined that there was an exceedance of the 24-hour PM₁₀ standard at this site on July 30, 2008. The final PM₁₀ 24-hour concentration for July 30, 2008 was measured at 233.1 µg/m³, exceeding the PM₁₀ 24-hour average concentration limit of 150 µg/m³. Based on a review of this monitoring data, the Air Quality Division has determined that Thunder Basin Coal Company, LLC has failed to take appropriate measures to control fugitive dust emissions from the excavation, stockpiling, material handling and material hauling operations at the Black Thunder Mine as required by Chapter 3, Section 2 of the Wyoming Air Quality Standards and Regulations and the various permits issued for the Black Thunder Mine.

6. Said violations consist of the failure to minimize fugitive dust emissions from the Black Thunder Mine operations in violation of W.S. 35-11-201 of the Wyoming Environmental Quality Act, Chapter 3, Section 2(f) of the Wyoming Air Quality Standards and Regulations, and the various permits issued for operations at the Black Thunder Mine.

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

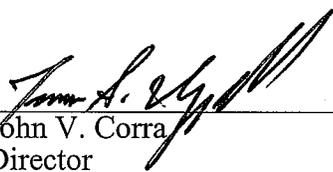
injunction, or both a penalty and an injunction.

8. This notice is being sent to you pursuant to W.S. 35-11-701(c), which requires that, in any case of the 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 24th day of August, 2009.



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, 122 W. 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307/777-7393.)