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

November 9, 2009

Mr. Aaron Koch
President
Koch Construction, Inc.
PO BOX 288
Daniel, WY 83115

RE: Notice of Violation

Dear Mr. Koch:

Enclosed is a Notice of Violation issued to Koch Construction, Inc. for the failure to control fugitive dust at the Koch Pit in violation of condition 8 of permit CT-7572.

As the Department and this Division consider the failure to comply with permit and regulatory requirements to be a serious matter, I am considering recommending that 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: Bob Gill
Chris Hanify
Nancy Vehr
Keith Guille

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

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|---|---|---|
| **IN THE MATTER OF THE NOTICE OF VIOLATION** | ) | |
| **ISSUED TO KOCH CONSTRUCTION, INC,** | ) | **DOCKET NO.** 4596-09 |
| **MR. AARON KOCH,** | ) | |
| **PRESIDENT,** | ) | |
| **PO BOX 288** | ) | |
| **DANIEL, WYOMING 83115** | ) | |

## NOTICE OF VIOLATION

**NOTICE IS HEREBY GIVEN THAT:**

1. The Department of Environmental Quality, Division of Air Quality, has found Koch Construction, Inc. to be in violation of permit CT-7572 issued in accordance with W.S. 35-11-801(a) of the Wyoming Environmental Quality Act and Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations in the operation of the Koch Pit located in Sublette County, Wyoming.

2. W.S. 35-11-801(a) 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 CT-7572 was issued to Koch Construction, Inc. on September 3, 2008. Condition 8 states:

"That all work areas, disturbed areas, and stockpiles shall be treated with water and/or chemical dust suppressants on a schedule sufficient to control fugitive dust."

5. On July 29, 2009, Ms. Jennifer Frazier, Air Quality Division Engineer/Inspector, observed significant fugitive dust from the Koch Pit. No fugitive dust control activities were observed.

6. Said violation consists of the failure to control fugitive dust emissions from the Koch Pit located in Sublette County, Wyoming in violation of Condition 8 of permit CT-7572.

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 23 day of Nov, 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.)