Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Matthew H. Mead, Governor

John Corra, Director

June 29, 2012

Mr. Philip Dinsmoor, Environmental Services
Powder River Coal, LLC
Caller Box 3034
Gillette, WY 82717

RE: Notice of Violation

Dear Mr. Dinsmoor,

Enclosed you will find a Notice of Violation (NOV) issued to Powder River Coal, LLC by the Department of Environmental Quality, Air Quality Division, for the failure to minimize fugitive dust emissions from the North Antelope Rochelle Mine operations and adhere to the Air Quality Action Plan 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 permit MD-6375A issued for operations at the North Antelope Rochelle.

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,

Steven A. Dietrich

Steven A. Dietrich
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 POWDER RIVER COAL, LLC	)	**DOCKET NO. 5014-12**
MR. PHILIP C. DINSMOOR,	)	
MANAGER, ENVIRONMENTAL SERVICES	)	
CALLER BOX 3034	)	
GILLETTE, WY 82717	)	

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found Powder River Coal, 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 MD-6375A issued in the operation of the North Antelope Rochelle 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. MD-6375A was issued to Powder River Coal, LLC issued for the North Antelope Rochelle Mine require implementation of fugitive dust control measures, installation and operation of an ambient particulate monitoring network and develop and adhere to an Air Quality Action Plan.

5. Condition 24 of permit MD-6375A requires that Powder River Coal, LLC adhere to their contingency action plan for high particulate events at North Antelope Rochelle Mine.

6. During a recent review of Powder River Coal's ambient particulate monitoring data for the RO-1 monitoring site associated with the North Antelope Rochelle Mine, the Air Quality Division determined that there were two exceedances of the 24-hour PM_{10} standard at this site on August 23, 2011 and November 12, 2011. The final PM_{10} 24-hour concentration for August 23, 2011 was measured at 217.6 $\mu g/m^3$ and for November 12, 2011 was measured at 157.4 $\mu g/m^3$, exceeding the PM_{10} 24-hour average concentration limit of 150 $\mu g/m^3$. Based on a review of this monitoring data, the Air Quality Division has determined that Powder River Coal, LLC has failed to take appropriate measures to control fugitive dust emissions from the excavation, stockpiling, material handling and material hauling operations at the North Antelope Rochelle Mine as required by Chapter 3, Section 2 of the Wyoming Air Quality Standards and Regulations and the various permits issued for the North Antelope Rochelle Mine.

7. Said violations consist of the failure to minimize fugitive dust emissions from the North Antelope Rochelle Mine operations and adhere to the Air Quality Action Plan 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 permit MD-6375A issued for operations at the North Antelope Rochelle.

8. 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.

9. 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 29th day of JUNE, 2012.

Steven A. Dietrich
Administrator
Air Quality Division

John V. Corra
Director
Department of Environmental Quality

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