



# 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

October 29, 2012

Mr. Steve Gili, Mine Manager  
Black Butte Coal Company  
P.O. Box 98  
Point of Rocks, WY 82942

RE: Notice of Violation

Dear Mr. Gili:

Enclosed you will find a Notice of Violation (NOV) issued to Black Butte Coal Company by the Department of Environmental Quality, Air Quality Division, for failing to comply with the requirements of the Wyoming Air Quality Standards and Regulations and various permits. Based on inspection findings and numerous high PM-10 measurements recorded at monitoring sites associated with the Black Butte Mine since October 29, 2011, the Air Quality Division has determined that Black Butte Coal Company has failed to: 1) minimize fugitive dust emissions from roundhousing operations at Pit 8 stilling shed, 2) minimize fugitive dust emissions from loading operations at Pit 10, 3) maintain the Pit 8 stilling shed as an adequate fugitive dust control system, 4) treat inactive spoil piles in Pit 10 and Pit 11 with water or chemical dust suppressants to control fugitive dust emissions, 5) treat disturbed pre-strip areas in Pit 10 and Pit 11 to control fugitive dust emissions, 6) treat coal stockpiles to minimize fugitive dust emissions and 7) treat all haul roads, access roads, work areas and stockpiles with water and/or chemical dust suppressants on a schedule sufficient to control fugitive dust from vehicular traffic and wind erosion from Black Butte Mine operations.

As the Department and this Division consider the failure to comply with air quality 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  
Administrator  
Air Quality Division

cc: Robert Gill, Tony Hoyt, Cara Keslar, Nancy Vehr, Keith Guille



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

**IN THE MATTER OF THE NOTICE OF VIOLATION )  
ISSUED TO BLACK BUTTE COAL COMPANY, ) DOCKET NO. 5078-12  
MR. STEVE GILL, MINE MANAGER, P.O BOX 98 )  
POINT OF ROCKS, WY 82942 )**

**NOTICE OF VIOLATION**

**NOTICE IS HEREBY GIVEN THAT:**

1. The Department of Environmental Quality, Division of Air Quality, has found Black Butte Coal Company to be in violation of W.S. 35-11-201 and W.S. 35-11-801 of the Wyoming Environmental Quality Act, Chapter 3, Section 2(f) of the Wyoming Air Quality Standards and Regulations, MD-7424 and other various permits issued to Black Butte Coal Company in the operation of the Black Butte Mine located in Sweetwater 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."

4. On July 17, 2012, Air Quality Inspector, Mr. Jeff Wendt observed excessive fugitive dust from the "roundhousing" operations at Pit 8. At approximately 9:30 a.m., upon approaching and entering the facility, a large plume of fugitive dust was observed in the vicinity of Pit 8. The plume appeared to be two hundred or more feet in height and quite dynamic in nature. Discussion with Black Butte personnel indicated the plume was from the "roundhousing" operations at Pit 8.

5. During the mine tour, loading operations in Pit 10 were observed from a distance at several points during the tour. Material from Pit 10 was being moved from Pit 10 to Pit 9 for fill. Excessive fugitive dust was observed from Pit 10 loading operations.

6. 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."

7. 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.

8. Permit MD-7424 was issued to Black Butte Mining Company on March 19, 2009.

9. Condition 12 of permit MD-7424 states, "That upon installation of the Pit 8 stilling shed, Black Butte Mining Company shall conduct, at minimum, weekly inspections of the Pit 8 coal truck dump control system to determine any repair measures necessary to minimize fugitive dust emissions and maintain proper operation of each control system. Corrective action and repair measures must be initiated in an expeditious manner when the control device is determined to be improperly maintained or operated." During the FY 2012 inspection, it was discovered that the Pit 8 stilling shed was in a state of disrepair and that repairs were not being properly scheduled or performed when required to maintain the structure as an adequate fugitive dust control system.

10. Condition 14 of permit MD-7424 states, "That Black Butte Mining Company shall treat the inactive spoil piles in Pit 10 and Pit 11 with water or chemical dust suppressants to control fugitive dust emissions on a schedule such that treatment remains a viable control measure." As part of the FY 2012 inspection, a record request review of this activity revealed that 270 acres of inactive spoil

piles exist in Pit 11 and the 150 acres of inactive spoil piles exist at Pit 10. The review revealed that at most a total of 76 hours were spent watering these piles in 2011 and that treatment is limited to two water trucks watering only established roads along the tops of the inactive spoil piles.

11. Condition 15 of permit MD-7424 states, "That Black Butte Mining Company shall treat disturbed pre-strip areas in Pit 10 and Pit 11 with water or chemical dust suppressants to control fugitive dust emissions on a schedule such that treatment remains a viable control measure. Newly disturbed pre-strip areas in Pit 10 and Pit 11 shall be treated within seven (7) days of completion of stripping." As a part of the FY 2012 inspection, information was requested on the total area of pre-strip in Pit 10 and Pit 11, dates of pre-stripping in those same pits, the dates the pre-strip areas were treated and the equipment and methods used to treat the pre-strip areas. Black Butte Mining personnel indicated that the Pit 10 pre-strip area was treated continuously with water as the operation occurred and that a sprinkler system was occasionally used to soak the Pit 11 highwall. However, no documentation was provided to show this had occurred and there was no evidence of a sprinkler system during the mine tour.

12. Condition 31 of permit MD-7424 states, "The coal stockpiles at the Black Butte Mine shall be treated with water, to the extent necessary, to minimize fugitive emissions." During the FY 2012 inspection site visit to the Pit 8 stilling shed area, the ground was fully soaked with water, but the vertical walls of the coal piles were not wet and showed no evidence of spraying or treatment. Wind blown fugitive dust was observed from the steeper sections of the coal piles under low wind conditions.

13. Various permits issued to Black Butte Coal Company for the Black Butte Mine require Black Butte Coal Company to treat all haul roads, access roads, work areas and stockpiles with water and/or chemical dust suppressants on a schedule sufficient to control fugitive dust from vehicular traffic and wind erosion.

14. During a recent review of Black Butte Coal Company's ambient particulate monitoring data for the Pit 10 monitoring site associated with the Black Butte Mine, the Air Quality Division determined that there have been 3 exceedances of the 24-hour PM-10 standard at this site on October 29, 2011, January 18, 2012 and February 25, 2012. An additional exceedance of the 24-hour PM-10 standard was recorded at the I-80 monitoring site associated with the Black Butte Mine, recorded on March 26, 2012. The final PM<sub>10</sub> 24-hour concentrations measured at the Pit 10 monitor were 156.7µg/m<sup>3</sup> on October 29, 2011, 182.5µg/m<sup>3</sup> on January 18, 2012 and 215.1µg/m<sup>3</sup> on February 25, 2012. The final PM<sub>10</sub> 24-hour concentration measured at the I-80 monitor on March 26, 2012 was 224.1µg/m<sup>3</sup>. All of these measurements exceed the PM<sub>10</sub> 24-hour average concentration limit of 150 µg/m<sup>3</sup>. Based on a review of this monitoring data, the Air Quality Division has determined that Black Butte Coal Company has failed to take appropriate measures to control fugitive dust emissions from the excavation, stockpiling, material handling and material hauling operations at the Black Butte Mine as required by Chapter 3, Section 2 of the Wyoming Air Quality Standards and Regulations and the various permits issued to Black Butte Coal Company.

15. Said violations consist of the failure to: 1) minimize fugitive dust emissions from "roundhousing" operations at Pit 8 stilling shed, 2) minimize fugitive dust emissions from loading operations at Pit 10, 3) maintain the Pit 8 stilling shed as an adequate fugitive dust control system, 4) treat inactive spoil piles in Pit 10 and Pit 11 with water or chemical dust suppressants to control fugitive dust emissions, 5) treat disturbed pre-strip areas in Pit 10 and Pit 11 to control fugitive dust emissions, 6) treat coal stockpiles to minimize fugitive dust emissions and 7) treat all haul roads, access roads, work areas and stockpiles with water and/or chemical dust suppressants on a schedule sufficient to control fugitive dust from vehicular traffic and wind erosion from Black Butte Mine operations.

16. 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.

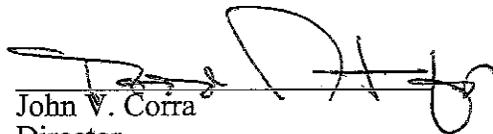
17. This notice is being sent to you pursuant to W.S. 35-11-701(c), which requires that, in any case of the failure to correct or remedy an alleged violation, the Director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.

Black Butte Coal Company  
Notice of Violation  
Page Two

DATED this 29<sup>th</sup> day of OCTOBER, 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, 4th Floor, 122 W. 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307/777-7393.)