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

Todd Parfitt, Director

March 21, 2013

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 the failure to minimize fugitive dust emissions from the Black Butte Mine operations 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 and various permits.

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

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. 5143-13**
MR. STEVE GILI, 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 and 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. 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."

4. 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."

5. 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.

6. 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 2 exceedances of the 24-hour PM-10 standard at this site on April 27, 2012 and June 17, 2012. The final PM_{10} 24-hour concentrations measured at the Pit 10 monitor were 200.1$\mu g/m^3$ on April 27, 2012, and 413.2$\mu g/m^3$ on June 17, 2012. These measurements exceed 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 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.

7. Said violation consists of the failure 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 from Black Butte Mine operations.

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 21st day of MARCH, 2013.

Steven A. Dietrich
Administrator
Air Quality Division

Todd Parfitt
Director
Department of Environmental Quality

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