



# 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

September 24, 2014

Mr. Brad Olson  
E.H. Oftedal and Sons, Inc.  
PO Box 400  
Miles City, MT 59301

Re: Notice of Violation

Dear Mr. Olson,

Enclosed you will find a Notice of Violation (NOV) issued to E.H. Oftedal and Sons, Inc. by the Department of Environmental Quality, Air Quality Division for the failure to control fugitive dust emissions from the Mesa Mine located in Sublette County, Wyoming in violation of Chapter 3, Section 2 of the Wyoming Air Quality Standards and Regulations. Violations were observed by the Division on July 28, 2014.

As the Department and this Division consider the failure to comply with air quality regulatory 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 issue prior to referral to the Attorney General's office, please contact Ms. Ann Shed, 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 the Notice of Violation, please feel free to contact me or Ms. Ann Shed.

Sincerely,

Steven A. Dietrich  
Administrator  
Air Quality Division

cc: Elizabeth Lyon  
Fred DiLella  
Ann Shed  
Tony Hoyt  
Landon Brown



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

<b>IN THE MATTER OF THE NOTICE OF VIOLATION</b>	)	
<b>ISSUED TO E.H. OFTEDAL AND SONS, INC.</b>	)	<b>DOCKET NO. 5461-14</b>
<b>MR. BRAD OLSON,</b>	)	
<b>PO BOX 400</b>	)	
<b>MILES CITY, MONTANA 59301</b>	)	

**NOTICE OF VIOLATION**

**NOTICE IS HEREBY GIVEN THAT:**

1. The Department of Environmental Quality, Division of Air Quality, has found E.H. Oftedal and Sons, Inc. to be in violation of W.S. 35-11-801 of the Wyoming Environmental Quality Act and Chapter 3, Section 2 of the Wyoming Air Quality Standards and Regulations (WAQSR) at the Mesa Mine 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 3, Section 2(a) and (f)(ii) of the WAQSR states:
  - (a) "Visible emissions of any contaminant discharged into the atmosphere from any single new source of emission whatsoever as determined by a qualified observer shall be limited to 20 percent opacity..."
  - (f) "Fugitive Dust. Sources operating within the State of Wyoming are required to control fugitive dust emissions. The following control measures or any equivalent method approved by the Division Administrator shall be considered appropriate for minimizing fugitive dust:
    - (ii) Handling and Transporting of Materials. (A) Any person owning, operating or maintaining a new or existing material storage, handling and/or hauling operation shall minimize fugitive dust from such an operation. 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 dusts. Control measures for material handling may also include installation and use of hoods, fans and fabric filters to enclose and vent dusty materials. (B) When transporting materials likely to give rise to airborne dust, open bodied trucks shall be covered when in motion.
  
4. Permit RE-157 was issued to E.H. Oftedal and Sons, Inc. for a portable crushing and screening operation on July 16, 1999, and was amended through permit RE-157A, issued on December 9, 1999. Conditions 4 and 5, of permit RE-157A, require control of emissions within the permitted limit of 20 percent opacity.

Condition 4: "That this crushing and screening plant shall utilize a wet suppression system at all belt transfer points, screens, and discharge points of the crushers as necessary to comply with the allowable opacity limit ..."

Condition 5: "That all haul roads, access roads, work areas and stockpiles shall be treated with water and/or chemical dust suppressants on a schedule sufficient to control fugitive dust emissions."

5. On July 28, 2014 while traveling on Highway 351, Ms. Jamie Brewer, Air Quality Division Engineer, observed excessive fugitive dust from the Mesa Mine. Proceeding onto Horse Ranch Road, which is approximately 1.2 miles west of the Mesa Mine, Ms. Brewer continued to observe dust. During Ms. Brewer's facility visit it was observed that no wet suppression was being utilized to comply with the allowable opacity limits. It was further observed that the work area and stockpiles were not being treated on a schedule sufficient to control fugitive dust emissions.

6. Said violations consist of failing to control emissions at the Mesa Mine. Failing to control emissions is a violation of Chapter 3, Section 2 of the WAQSR and of permit RE-157A.

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 24<sup>th</sup> day of SEPTEMBER, 2014.



Steven A. Dietrich  
Administrator  
Air Quality Division



Todd Parfitt  
Director  
Department of Environmental Quality

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