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

May 14, 2015

Mr. Philip Dinsmoor
Environmental Services
Peabody School Creek Mining, LLC
Caller Box 3034
Gillette, WY 82717-3034

RE: Notice of Violation, Docket #5571-15

Dear Mr. Dinsmoor:

Enclosed you will find a Notice of Violation (NOV) issued to Peabody School Creek Mining, LLC by the Department of Environmental Quality, Air Quality Division, for the failure to minimize fugitive dust emissions at the School Creek Mine operations 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 CT-6445.

As the Department and this Division consider the failure to comply with air quality permitting requirements to be a serious matter, I am considering recommending the Department refer these violations 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. 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 this matter, please feel free to contact me Ms. Ann Shed.

Sincerely,

Steven A. Dietrich

Steven A. Dietrich
Administrator
Air Quality Division

cc: Fred DiLella
Ann Shed
Landon Brown
Cara Keslar
Elizabeth Lyon
Tanner Shatto

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION	)
ISSUED TO PEABODY SCHOOL CREEK MINING, LLC	) **DOCKET NO. 5571-15**
MR. PHIL DINSMOOR	)
CALLER BOX 3034	)
GILLETTE, WY 82717-3034	)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found Peabody School Creek Mining, 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 (WAQSR) and permit CT-6445 issued in the operation of the School Creek 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 WAQSR 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 WAQSR 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. Permit CT-6445 was issued to West Roundup Resources Inc. on November 17, 2008 for the School Creek Mine. This facility and applicable permits transferred to Peabody School Creek Mining, LLC on or about September 6, 2011. Permit CT-6445 requires fugitive dust control measures, installation and operation of an ambient particulate monitoring network.

5. During a recent review of the ambient particulate data for the SC-3 monitoring site associated with the School Creek Mine, the Air Quality Division determined that there was an exceedance of the 24-hour PM_{10} standard at this site on October 23, 2014. The final PM_{10} 24-hour concentration for that date was measured at 171.2 $\mu g/m^3$, exceeding the PM_{10} 24-hour average concentration limit of 150 $\mu g/m^3$. Based on a review of this monitoring data, the Division has determined that Peabody School Creek Mining, LLC has failed to take appropriate measures to control fugitive dust emissions from the excavation, stockpiling, material handling and material hauling operations at the School Creek Mine as required by Chapter 3, Section 2 of the WAQSR and permit CT-6445.

6. Said violations consist of the failure to minimize fugitive dust emissions from the School Creek 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 WAQSR, and permit CT-6445 issued for operations at the School Creek Mine.

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 14th day of MAY, 2015.

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, 2nd Floor, 122 W. 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307/777-7393.)