



# 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 30, 2015

Mr. Steve Gill  
Black Butte Coal Company  
PO Box 98  
Point of Rocks, WY 82942

Re: Notice of Violation, Docket #5619-15

Dear Mr. Gill,

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 and failure to maintain an ambient air monitoring network at the Leucite Mine, in violation of W.S. §35-11-201 of the Wyoming Environmental Quality Act and Chapter 3, Section 2(f) of the Wyoming Air Quality Standards and Regulations and permit MD-178.

As the Department and this Division consider the failure to comply with air quality permit conditions 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 action on the referral by 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 or Ms. Ann Shed.

Sincerely,

Cole Anderson  
Interim Administrator  
Air Quality Division

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



**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. 5619-15**  
**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 of the Wyoming Environmental Quality Act, Chapter 3, Section 2(f) of the Wyoming Air Quality Standards and Regulations (WAQSR) and various permits issued under Chapter 6, Section 2 of WAQSR to Black Butte Coal Company in the operation of the Leucite 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."

4. Various permits issued to Black Butte Coal Company for the Leucite 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.

5. During a review of Black Butte Coal Company's ambient particulate monitoring data for the Leucite Tapered Element Oscillating Microbalance (TEOM) sampler associated with the Leucite Mine, the Air Quality Division determined that there was an exceedance of the 24-hour PM-10 standard at this site on May 3, 2014. The final PM<sub>10</sub> 24-hour concentration measured at the TEOM sampler was 347.3µg/m<sup>3</sup> on May 3, 2014. This measurement exceeds the PM<sub>10</sub> 24-hour average concentration limit of 150 µg/m<sup>3</sup>. 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 Leucite 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.

6. Condition 9 of permit MD-178, which was issued on October 2, 1992, requires the mine to "operate an ambient air monitoring network approved by the Air Quality Division, to measure ambient particulate concentrations, including PM-10 sized particulate." The Division requires industrial air quality monitors to meet the standards in 40 CFR §58.12. Subsection (a) of 40 CFR §58.12 states that "For continuous analyzers, consecutive hourly averages must be collected except during (1) Periods of routine maintenance, (2) Periods of instrument calibration, or (3) Periods or monitoring seasons exempted by the Regional Administrator."

7. In an Exceptional Event packet submitted and dated November 19, 2014, Black Butte Coal Company stated that the TEOM sampler was shut off to avoid erroneous readings during work being performed by a contractor to the area around the Leucite TEOM sampler. The TEOM sampler was shut down from 9:00 AM until noon on May 3, 2014 while the contractor applied crimped straw. Based on the information provided in the Exceptional Event packet, the Air Quality Division has determined that Black Butte Coal Company has failed to meet Condition 9 of permit MD-178 and 40 CFR §58.12.

8. Said violations consist of the failure to minimize fugitive dust and the failure to operate and maintain an ambient air monitoring network at the Leucite Mine operations in violation of W.S. §35-11-201 of the Wyoming Environmental Quality Act; Chapter 3, Section 2(f) of the WAQSR; various permits under Chapter 6, Section 2 of the WAQSR, including MD-178; and 40 CFR §58.12.

9. 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.

10. 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 30 day of September, 2015.



Cole Anderson  
Interim Administrator  
Air Quality Division



Todd Parfitt  
Director  
Department of Environmental Quality

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