

STATE OF WYOMING
DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION
HERSCHLER BUILDING, 122 W. 25TH ST
CHEYENNE, WY 82002
TELEPHONE: (307) 777-7756
COAL OPERATION
NOTICE OF VIOLATION (NOTICE)

N.O.V. No. 100188
Permit No. 240-T5
Docket No. 4070-07

To the Following Permittee or Operator or Licensee:

Name: Powder River Coal, LLC

Mine: Rawhide Coal Mine

County: Campbell

Telephone: (307) 685-6721

Surface: X Underground: _____ Other: _____

Mailing Address: Caller Box 3034

Gillette, WY 82717-3034

Date of Inspection: May 9, 2007

Time of Inspection: from 8:15 AM to 4:30 PM

Name of Operator (if other than permittee):

Mailing Address: _____

Under the authority of the Wyoming Environmental Quality Act of 1973 (Act), as amended, the undersigned designated representative of the Director of the Wyoming Department of Environmental Quality (DEQ) has conducted an inspection of the above mine on the above date and has found violation(s) of the Act., the regulations or required permit condition(s) *listed in the attachment(s)*. This Notice constitutes a separate Notice of Violation for each violation listed.

You must abate each of these violations within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

The undersigned designated representative finds that cessation of mining is not expressly or in practical effect required by this Notice. For this purpose "mining" means extracting coal from the earth or a waste pile and transporting it within or from the permit area.

This Notice shall remain in effect until it expires as provided on the attached Page 2 or is modified, terminated, or vacated by written notice of a designated representative or the Wyoming Environmental Quality Council. The time for abatement may be extended by a designated representative for up to 90 days from issuance of the notice, if the failure to meet the time previously set was not caused by lack of diligence on the part of the Permittee or Operator or Licensee.

DATE OF SERVICE: MAY 25, 2007

MANNER OF SERVICE: CERTIFIED MAIL 7005 1820 0065 1478 7906

PROOF OF SERVICE: _____


SIGNATURE OF DESIGNATED REPRESENTATIVE

RICHARD A. CHANCELLOR, PE
PRINTED NAME

PERSON SERVED WITH NOTICE: SCOTT BELDON

CC: CHEYENNE LQD
DISTRICT OFFICE
OSM - CASPER FIELD OFFICE

IMPORTANT – PLEASE READ CAREFULLY

1. **FORMAL REVIEW AND TEMPORARY RELIEF** You must apply for review of this Notice by submitting an application for review, within 30 days of this Notice by you or your agent, to:

Mr. John V. Corra, Director
Department of Environmental Quality
Herschler Building
122 W.25th St.
Cheyenne, WY 82002

If you apply for a formal public hearing, you may request temporary relief from this Notice. Your request must be filed at the above address prior to a decision in the hearing. The procedures for obtaining a formal public hearing or temporary relief are contained in W.S. § 35-11-437 (c) (ii) and (e), Land Quality Division (LQD) Coal Rules & Regulations (R&R) Chapter 16, Section 2(m) and DEQ Rules of Practice and Procedures Chapters 1 and 2.

2. **EXPEDITED REVIEW** If this Notice requires cessation of mining, expressly or in practical effect, as found on page 1, then the procedures of W.S. § 35-11-437 (d) apply. This provision affords an opportunity for an expedited hearing, upon request, if this Notice is affirmed by the director. Please review this finding and inform the designated representative if you agree with it.

3. **PENALTIES** You may submit information in writing pertaining to the violation(s) covered by this Notice within 15 days of the date it is served on you or your agent. This information will be considered in determining the facts surrounding the violation and the amount of penalty.

For each violation covered by this Notice, a penalty of up to \$5,000.00 may be assessed for each day during which that violation continues.

If you fail to abate any of the violations within the time set for abatement or for meeting any interim step, you must be assessed a minimum penalty of \$750.00 or more for each day during which the violation continues beyond the time set for abatement, and you must be issued a cessation order requiring you to cease surface coal mining operations on the portion relevant to the violation(s).

4. **EFFECT ON THE PERMIT** In addition, if it is determined that a pattern of violations of any requirement(s) of the Act, the regulations, or permit conditions exists, and that the violations were caused by unwarranted failure to comply or were willful, the permit may be suspended or revoked.

FOR FURTHER INFORMATION, PLEASE CONSULT: W.S. § 35-11-409(c), W.S. § 35-11-437, LQD Coal R&R Chapter 16, Sections 2 and 3 and DEQ Rules of Practice and Procedures Chapters 1 and 2.

Violation No. 1 of 2

Nature of the Violation

Significant differences were observed between the certified and approved RH-4E reservoir design and the impoundment observed on-site. This is a failure to construct the impoundment to conform to approved designs.

Provision(s) of the LOD Coal R&R, Act, or Permit Violated

Wyoming Department of Environmental Quality, Land Quality Coal Rules and Regulations, Ch. 4, Sec. 2(g)(iv)(F): "All impoundments shall be inspected regularly during and immediately after construction by a qualified registered professional engineer or qualified professional specialist under the direction of a qualified professional engineer. These individuals shall be experienced in impoundment construction. Immediately following each inspection a report shall be prepared and certified by the engineer describing the construction work observed and its conformance with approved designs. All inspection reports shall be retained at the mine site and submitted in the annual report to the Administrator."

Portion of the Operation to which Notice Applies

Reservoir RH-4E located in Section 9, T.51N., R.72W.

Remedial Action Required (including interim steps, if any)

- 1) Repair the existing RH-4E Reservoir to the as-built design or mine through with elimination of the structure.
- 2) Submit a permit revision to include the as-built design for RH-4E Reservoir in Permit 240-T5 if the structure is repaired.

Time for Abatement (including time for interim steps, if any)

- 1) Repairs to or elimination of RH-4E must be completed within 60 days of this notice.
- 2) If the structure is repaired, the as-built design should be received in the LQD District 3 office within 15 days of this notice.

Violation No. 2 of 2

Nature of the Violation

Reservoir RH-4E was certified as being completed on May 22, 2006. The embankment of the reservoir was not vegetated as of May 9, 2007. This is a failure to vegetate the embankments and surrounding areas.

Provision(s) of the LQD Coal R&R, Act, or Permit Violated

Wyoming Department of Environmental Quality, Land Quality Coal Rules and Regulations, Ch. 4, Sec. 2(g)(iv)(C): "Faces of embankments and surrounding areas shall be vegetated, except that faces where water is impounded may be riprapped or otherwise stabilized in accordance with accepted design practices, or where appropriate, Water Quality Division rules and regulations."

Portion of the Operation to which Notice Applies

Reservoir RH-4E located in Section 9, T.51N., R.72W.

Remedial Action Required (including interim steps, if any)

Seed the embankment and surrounding areas on RH-4E Reservoir if the structure is repaired.

Time for Abatement (including time for interim steps, if any)

Seeding should be performed immediately after completion of reservoir repairs if structural repairs are made.