

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)

RECEIVED
OCT 13 2007

N.O.V. No. 100191
Permit No. 486-T5
Docket No. 4163-07

To the Following Permittee or Operator or Licensee:

Name: Landrica Development Co., a wholly owned subsidiary of KFx, Inc.

Mine: KFx Mine County Campbell Telephone (307) 687-0900

Surface: X Underground: _____ Other: _____

Mailing Address: P.O. Box 2008
Gillette, WY 82716

Date of Inspection: October 10, 2007

Time of Inspection: from 10:30 (a.m to 1:00 (p.m.)

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 _____ is not x 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: OCTOBER 16, 2007

Glenn Mooney
SIGNATURE OF DESIGNATED REPRESENTATIVE

MANNER OF SERVICE: CERTIFIED MAIL

PROOF OF SERVICE: RECEIPT NO. 7005 1160 0001 6423 6163

Glenn Mooney
PRINTED NAME

PERSON SERVED WITH NOTICE: VICTOR BOZIC

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.

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Violation No. 1 of 1

Nature of the Violation

During the inspection, the contractor involved in enlarging Sediment Pond No. 7 was observed to have constructed a new topsoil stockpile across the road from the pond area and then removed a portion of the topsoil from the area adjacent to the stockpiled topsoil. The contractor then proceeded to stockpile overburden upon the area where topsoil had partially been salvaged and adjacent to the stockpiled topsoil. Some of the overburden then spilled over onto the stockpiled topsoil and some onto adjacent in-place native grass and topsoil. Neither the overburden stockpile nor the topsoil stockpile are authorized in the KFx Mine's approved Mine Plan document. No topsoil identification sign was present upon the stockpiled topsoil.

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

Burial and contamination of topsoil is a violation of Land Quality Division Coal Rules and Regulations, Chapter 4, Section 2(c)(i)(A).

Construction of unauthorized topsoil and overburden stockpiles is a violation of W.S. § 35-11-415(b)(ii).

Failure to place topsoil identification signs on topsoil stockpiles is a violation of Land Quality Division Coal Rules and Regulations, Chapter 4, Section 2(c)(i)(D).

Portion of the Operation to which Notice Applies

Construction of Sediment Pond No. 7.

Remedial Action Required (including interim steps, if any)

Remove overburden from native, in-place topsoil and place in approved overburden stockpile or pit area. Remove stockpiled topsoil and place in approved topsoil stockpile. Replace adequate amount of topsoil on disturbed area and reseed with reclamation seed mixture. Submit Form 11 Revision application to expand life-of-mine affected area boundary to include new disturbances.

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

All movement of overburden and topsoil shall be completed within thirty (30) days of the receipt of this Notice. Submission of a Form 11 revision application shall also be completed within thirty (30) days of the receipt of this Notice. Completion of seeding of stockpile area shall be completed within sixty (60) days of the receipt of this Notice.