

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO)
BLACK HILLS BENTONITE)
ATTN: MR. TOM THORSON)
P.O. BOX 9)
MILLS, WY 82644)
RE: PERMIT 281C)

DOCKET NO. 4188-07

NOTICE

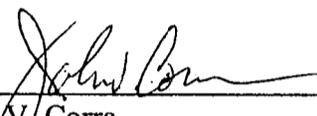
NOTICE IS HEREBY GIVEN THAT:

1. This Notice of Violation is being sent to you pursuant to Wyoming Statute §35-11-701(c)(i) which requires that a written notice shall be issued in the case of failure to correct or remedy an alleged violation.
2. On November 13 and 14, 2007, an Annual Inspection of Black Hills Bentonite, Mining Permit No. 281C, was conducted by John Erickson of the Land Quality Division, District II. The mine is located in Washakie County, Wyoming.
3. During the inspection, an area was observed where Black Hills Bentonite had walked heavy mining equipment across the Wyoming Dept. of Transportation Right-of-Way along State Highway 16. This activity resulted in a broken fence and adverse impacts to unstripped topsoil. The affected area is located outside of the Permit 281C boundary in the SW $\frac{1}{4}$ of Section 20, T.47N., R.89W.
4. A topsoil stockpile associated with Pit 27-3 was observed outside of the Permit 281C boundary. The stockpile is located in the NE $\frac{1}{4}$ of Section 27, T.48N., R.90W.
5. The 2007 Annual Report for Permit 281C, submitted September 25, 2007, depicts an overburden stockpile associated with Pit 27-4 located outside of the permit area boundary. The stockpile is in the NW $\frac{1}{4}$ of Section 27, T.48N., R.90W.
6. Creating mining disturbances outside of the permit area is a violation of §35-11-415(b)(ii), which requires that an operator conduct all surface mining and reclamation activities within the permit area in conformity with his approved plan.
7. During the inspection, several areas were identified where spoil had been dumped over steep slopes in excess of 20 degrees. These areas include Pit 06-1 in Section 36, Pit 17-1 in Section 17, and Pit 27-4 in Section 27, all in T.48N., R.90W.
8. Spoiling over steep slopes is a violation of Chapter 3, Section 2(c)(iv)(B)(II) of the Land Quality Division Non-Coal Rules and Regulations, which state that "spoil material shall not be deposited on slopes that exceed 20 degrees..."
9. During the inspection it was observed that topsoil had not been salvaged from all areas affected by mining. This includes the areas affected by steep-slope spoiling (see Item 7. above), as well as an access road constructed into Pit 26-7 in Section 26, T.48N., R.90W. where fill was placed on unstripped topsoil.
10. Failure to strip topsoil is a violation of Chapter 3, Sec. 2(c)(i)(A) of the Land Quality Division Non-Coal Rules and Regulations, which requires that "all topsoil or approved surface material shall be removed from all areas to be affected in the permit area..."

11. A topsoil stockpile located adjacent to Pit 27-3 in Section 27, T.40N., R.90W. was observed to be adversely affected by adjacent mining operations, resulting in compaction of the stockpile and contamination with spoil.
12. Failure to protect stockpiled topsoil is a violation of Chapter 3, Sec. 2(c)(i)(A) of the Land Quality Division Non-Coal Rules and Regulations which requires that "topsoil...shall be segregated so as not to become mixed with spoil or waste material" and Chapter 3, Sec. 2(c)(i)(B) which requires that "topsoil...shall be stockpiled...in such a manner so as to minimize wind and water erosion and unnecessary compaction."
13. Wyoming Statute §35-11-901(a) provides that any person who violates any provision of the Environmental Quality Act or any rule, standard, permit, license or variance adopted hereunder is liable to a penalty of ten thousand dollars (\$10,000.00) for each day of violation, which penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming.

NOTHING IN THE NOTICE shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV be interpreted as being a condition precedent to any other enforcement action.

SIGNED this 11 day of Dec, 2007



John V. Corra
Director
Department of Environmental Quality



Donald R. McKenzie
Administrator
Land Quality Division

Please direct all inquires regarding this Notice of Violation to Mr. Mark Moxley, Land Quality Division District II Supervisor, 510 Meadowview Dr., Lander, WY, 82520, telephone 307-332-3047.