

**DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

NOTICE OF VIOLATION

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|--|---|---------------------------|
| IN THE MATTER OF THE NOTICE OF |) | |
| VIOLATION ISSUED TO |) | |
| MR. DALE KOCH |) | DOCKET NO. 4180-07 |
| ATTN: MR. DALE KOCH |) | |
| P.O. BOX 550 |) | |
| RANCHESTER, WYOMING 82934 |) | |
| 1351ET - LIMITED MINING OPERATION |) | |

NOTICE

NOTICE IS HEREBY GIVEN THAT:

1. Notice of Violation (NOV) 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. The Wyoming Department of Environmental Quality, Land Quality Division, Noncoal Rules and Regulations, Chapter 3, Section 2(c)(i)(A) requires that all topsoil be removed from all areas to be affected in the permit area prior to the areas being affected by mining. The topsoil must be segregated so as not to become mixed with spoil or waste materials, must be stockpiled, and must be saved for reclamation purposes.
3. During the inspections of LMO 1351ET on May 29, 2007 and October 4, 2007, Mr. Koch was required to pull overburden that had been spilled onto native topsoil on the edge of a drainage that passes through the LMO back onto areas from which topsoil had been stripped. As of the November 7, 2007 follow-up inspection by Mr. David Schellinger, Mr. Koch had failed to remove the overburden from the topsoil surface as requested by the previous inspections on May 29, 2007 and October 4, 2007.
4. The Wyoming Department of Environmental Quality, Land Quality Division, Noncoal Rules and Regulations, Chapter 3, Section 2(c)(i)(F) allows topsoil from an LMO to be used in reclamation of another operation or by another operator only with permission from the Administrator.
7. During a follow-up inspection of Small Mine Permit No. 720(s) performed on October 4, 2007, Mr. James Ullery stated that he had purchased a small amount of topsoil from Mr. Koch, from LMO 1351ET, to topsoil the bottom of a backfilled gravel pit. During an inspection of LMO 1351ET the same day, Mr. Koch indicated that he had sold topsoil to Mr. Ullery because he had more than he could use to reclaim LMO 1351ET as Mr. Koch planned to be leave a pond covering over half the mined acreage.

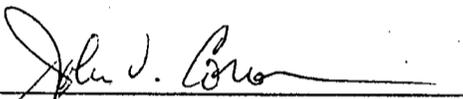
Mr. Koch has sold topsoil stripped from LMO 1351ET to a neighboring gravel pit operator for reclamation purposes without first obtaining permission from the Administrator.
8. The Wyoming Department of Environmental Quality, Land Quality Division, Noncoal Rules and Regulations, Chapter 10, Section 6(b) states: The operator may allow contractors to operate within its limited mining area provided notice is given to the Division and the contractor meets the other requirements of the Division, including filing of Form 10.
9. During a Follow-up Inspection of LMO 1351ET on November 7, 2007, an employee of Indian Pipe Cattle Company, owned by Mr. James Ullery, was observed excavating and screening gravel from the pit operated by Mr. Dale Koch under LMO 1351ET. A dozer belonging to Mr. Ullery was also observed parked at LMO 1351ET.

In a phone conversation of November 26, 2007, Mr. Ullery stated to Mr. Schellinger that Mr. Koch was leasing his equipment with an operator. Mr. James Ullery's company has been contracted by Mr. Dale Koch to conduct mining operations at LMO 1351ET without submitting a Form 10 with the change in operation for approval by the LQD.

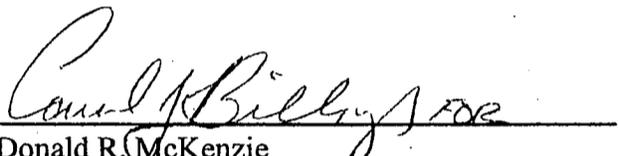
10. Wyoming Statute §35-11-901(a) provides that any person who violates any provision of the Environmental Quality Act or any rule, standard, permit, license or variance adopted hereunder is liable to a penalty of ten thousand dollars (\$10,000.00) for each day of violation, which penalty may be recovered 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 Rogaczewski, District III Supervisor, Wyoming Department of Environmental Quality/Land Quality Division, 1866 South Sheridan Avenue, Sheridan, WY, 82801

1351ET - LIMITED MINING OPERATION

cc: Mark Rogaczewski, LQD
NOV File, 1351ET