

DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF )  
VIOLATION ISSUED TO APPLICANT: )  
MELGAARD CONSTRUCTION CO., INC. ) DOCKET NO. 4182-07  
ATTN: MR. JOHN MELGAARD )  
P.O. BOX 2408 )  
GILLETTE, WYOMING 82717-2408 )  
1228ET – LIMITED MINING OPERATION )

NOTICE

NOTICE IS HEREBY GIVEN THAT:

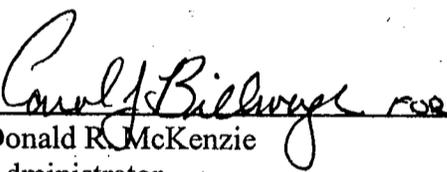
1. Notice of Violation (NOV) is being sent to you pursuant to Wyoming Statute §35-11-701(c)(i) which requires that a written notice shall be issued in the case of failure to correct or remedy an alleged violation.
2. During an inspection performed on November 6, 2007, Mr. David Schellinger mapped the disturbances associated with Limited Mining Operation (LMO) 1228ET using a Global Positioning System. The mapped disturbances equaled approximately 11.1 acres.
3. This is a violation of the Wyoming Environmental Quality Act, W. S. § 35-11-401(e)(vi), which allows a permit exemption for surface mining operations for the removal of sand, gravel, scoria, limestone, dolomite, shale, ballast, or feldspar from an area of ten (10) acres or less.
4. During the November 6, 2007 inspection of LMO 1228ET, Mr. Schellinger and Mr. Jon Sweet observed that a berm of overburden or reject materials had been constructed on top of native topsoil. The topsoil was not salvaged where the berm was constructed.
5. This is a violation of the Wyoming Department of Environmental Quality, Land Quality Division, Noncoal Rules and Regulations, Chapter 3, Section 2(c)(i)(A) that requires 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.
6. During the November 6, 2007 inspection of LMO 1228ET, Mr. Schellinger observed materials that had been pushed and dumped over the escarpments surrounding the southern and eastern edges of the pit area.
7. This is a violation of the Wyoming Department of Environmental Quality, Land Quality Division, Noncoal Rules and Regulations, Chapter 3, Section 4(c) which states: "In no case shall any materials be pushed or dumped over natural escarpments."
8. During the November 6, 2007 inspection of LMO 1228ET, statements made by Mr. Pete Maas of Croell Redi-Mix, Inc. and Ms. Jenna Polk of Melgaard Construction, Inc. indicated that Croell Redi-Mix, Inc. is performing the mining operations at LMO No. 1228ET. Melgaard Construction Co., Inc. did not submit a Form 10 for LQD approval that changed the operator of LMO 1228ET from Melgaard Construction Co., Inc. to Croell Redi-Mix, Inc.

9. This is a violation of the Wyoming Department of Environmental Quality, Land Quality Division, Noncoal Rules and Regulations, Chapter 10, Section 6(b) which 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."
10. During the November 6, 2007 inspection of LMO 1228ET, mining-related disturbances were mapped using a Global Positioning System. These disturbances have extended into the following locations: SWSW Section 6, T50N., R77W., NENE Section 12, T50N., R78W., and SESE Section 1, T50N., R78W. Melgaard Construction, Co., Inc. has not provided the LQD with written permission for the operation from the owner and lessee, if any, of the surface of these locations. The LQD was also not notified of mining activities in these locations before operations were commenced.
11. This is a violation of the Environmental Quality Act, W. S. § 35-11-401(e)(vi), which allows surface mining operations from an area of ten (10) acres or less of affected land if the operator has written permission for the operation from the owner and lessee, if any, of the surface.
12. 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 27<sup>th</sup> day of December, 2007

  
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John V. Corra  
Director  
Department of Environmental Quality

  
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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

**1228ET – LIMITED MINING OPERATION**

cc: Mark Rogaczewski, LQD  
File, 1228ET