

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. 100193
Permit No. 486-T5
Docket No. 4245-08

To the Following Permittee or Operator or Licensee:

Name: Landrica Development Company

Mine: KFx Mine County: Campbell Telephone: 307-687-0902

Surface: X Underground: _____ Other: _____

Mailing Address: P.O. Box 1777, Gillette, WY 82717-1777

Date of Inspection: March 27, 2008

Time of Inspection: from 10:00 a.m. to 2:00 p.m.

Name of Operator (if other than permittee): _____

Mailing Address: _____

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APR 7 2008
LQD

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: APRIL 4, 2008

Glenn Mooney
SIGNATURE OF DESIGNATED REPRESENTATIVE

MANNER OF SERVICE: CERTIFIED MAIL

GLENN MOONEY
PRINTED NAME

PROOF OF SERVICE: SIGNATURE OF RECEIPIENT

PERSON SERVED WITH NOTICE: ROD BERGLUND

CC: CHEYENNE LQD
DISTRICT 3 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 1

Nature of the Violation

In a March 10, 2008, letter from Victor Bozic of KFx to John Passehl of the Water Quality Division, Mr. Bozic reported that a leak had been discovered in a high pressure water line running from the KFx plant to Deep Disposal Well No. 1. According to Mr. Bozic, the leak apparently began early on February 27 at 6:57AM and continued until the pumping operation was shut down at 14:24 on February 28, 2008. Mr. Bozic reported that 13,262.99 gallons were lost and made no mention of any spilled water recovered. The water is a by-product of a coal enhancement plant and is contaminated with organic and inorganic chemicals which make it toxic to animal and plant life.

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

W.S. §35-11-415(b)(ii) for failure to follow the approved Mine Plan and W.S. §35-11-415(b)(viii) for failure to prevent contamination of subsurface water. The KFx Mine's approved Mine Plan, Section MP6.1.6, Unanticipated Conditions, on Pages MP-64 and MP-65, requires reporting of unforeseen conditions, including increased groundwater discharge, initially by telephone, but also by letter within five days. Also in Section MP6.1.11, KFx Injection Well and Delivery System Monitoring, Reporting and Leak Response Procedures, on Page MP-77, the Mine Plan required KFx to report pipeline leaks as soon as possible and no later than 5 days after to the date of the occurrence.

As of the date of this Notice, no one from KFx or Evergreen Energy has directly notified the Land Quality Division by telephone or letter of this leak and spill.

Portion of the Operation to which Notice Applies

Operation of Waste Disposal Wells Nos. DDW-1 and DDW-3.

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Remedial Action Required (including interim steps, if any)

Immediately cease use of Waste Disposal Wells Nos. DDW-1 and DDW-3 and associated pipelines. Meet with representatives of the Wyoming Department of Environmental Quality, Land Quality Division by April 25, 2008 to develop a groundwater monitoring plan to determine the extent and volume of affected groundwater. This plan will also include actions to recover and treat affected groundwater until contaminant concentrations in the remaining groundwater are below agreed limits

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

To be determined after initial meeting with Land Quality Division.