

STATE OF WYOMING  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LAND QUALITY DIVISION  
HERSCHLER BUILDING, 122 W. 25<sup>TH</sup> ST  
CHEYENNE, WY 82002  
TELEPHONE: (307) 777-7756  
COAL OPERATION  
NOTICE OF VIOLATION (NOTICE)

N.O.V. No. 100194  
Permit No. 214-T6  
Docket No. 4285-08

To the Following Permittee or Operator or Licensee:

Name: Foundation Coal West, Inc.

Mine: Belle Ayr Mine County: Campbell Telephone: (307) 687-3408

Surface:  Underground: \_\_\_\_\_ Other:

Mailing Address: P.O. Box 3039  
Gillette, WY 82717

Date of Inspection: June 5, 2008

Time of Inspection: from 11:00 a.m. to 3:00 p.m.

Name of Operator (if other than permittee): same

Mailing Address: same

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 not 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: JUNE 10, 2008

  
SIGNATURE OF DESIGNATED REPRESENTATIVE

MANNER OF SERVICE: CERTIFIED MAIL

DON CRECELIUS  
PRINTED NAME

PROOF OF SERVICE: RETURN RECEIPT

PERSON SERVED WITH NOTICE: LAUREL VICKLUND

CC: CHEYENNE LQD  
DISTRICT OFFICE  
OSM - CASPER FIELD OFFICE

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RECEIVED  
JUN 12 2008  
LQD

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.25<sup>th</sup> 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

The Belle Ayr Mine constructed a berm around Overburden Stockpile No. 16 to provide ultimate sediment control for the stockpile. The drainage area for the stockpile site does not pass through a sediment control structure. The berm on the northeast corner of the stockpile overflowed sediment laden water on to adjacent native topsoil. The southeast corner of the berm experienced a breach that allowed the release of sediment laden water on to adjacent native topsoil. Runoff from the stockpile did not pass through a control structure.

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

Land Quality Division Rules and Regulations Chapter 4, Section 2(c)(i)(A) and Chapter 4, Section 2(f)(i)

Portion of the Operation to which Notice Applies

Overburden Stockpile No. 16 in the NWNW of Section 1, T.47N.,R. 71W.

Remedial Action Required (including interim steps, if any)

The perimeter ditch around Overburden Stockpile 16 must be cleaned out and the berm repaired and fortified. Sediment that has been deposited on topsoil should be raked up to allow vegetation to survive and disperse the spoil. The stockpile will require regrading and reseeding.

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

Work will be delayed until field conditions dry out so equipment can access the area without impacting more native areas. The first priority should be to contain runoff from the breach area in the southeast corner; temporarily plugging the hole with straw bales or sediment fence. **The temporary closing of the breach in the southeast corner must occur no later than June 13, 2008. The cleaning of the ditch and repair of the berm must be completed no later than June 30, 2008.**

