

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. 100195  
Permit No. 433-T5  
Docket No. 4300-08

To the Following Permittee or Operator or Licensee:

Name: Caballo Coal Company

Mine: Caballo Coal Mine

County: Campbell

Telephone: (307) 687-6881

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

Mailing Address: Caller Box 3034

Gillette, WY 82717-3034

Date of Inspection: June 17, 2008

Time of Inspection: from 10:30 AM to 2:30 PM

Name of Operator (if other than permittee): \_\_\_\_\_

Mailing Address: \_\_\_\_\_



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 19, 2008

David A. Schellinger  
SIGNATURE OF DESIGNATED REPRESENTATIVE

MANNER OF SERVICE: CERTIFIED MAIL

DAVID A. SCHELLINGER  
PRINTED NAME

PROOF OF SERVICE: RETURN RECEIPT

PERSON SERVED WITH NOTICE: ROSE HAROIAN

CC: CHEYENNE LQD  
DISTRICT 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.25<sup>th</sup> St.  
Cheyenne, WY 82002

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LQD

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

Caballo Mine failed to salvage and stockpile topsoil in the most advantageous manner to be saved for reclamation. During the June 17, 2008 Monthly Inspection at Caballo Mine the inspector observed topsoil from a breached berm on topsoil stockpile TS-53 spread over an area stripped of topsoil. Rainfall events on May 22 and 23, 2008 were the most significant precipitation during the period following the previous inspection, yet salvage of the topsoil and repair of the topsoil protective berm had not been completed during the following three-weeks. The conditions at the time of the inspection were dry, and vehicle traffic was evident on the topsoil plume.

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

Wyoming Department of Environmental Quality, Land Quality Coal Rules and Regulations, Ch. 4, Sec. 2(c)(i)(A): "All topsoil or approved surface material shall be removed from all areas to be affected in the permit area prior to these areas being affected unless otherwise authorized by the Administrator. The topsoil .... shall be segregated so as not to become mixed with spoil or waste material, stockpiled in the most advantageous manner and saved for reclamation."

Portion of the Operation to which Notice Applies

Section 3, T. 48 N., R. 71 W.

Remedial Action Required (including interim steps, if any)

- 1) Salvage the topsoil deposited on the stripped area adjacent to topsoil stockpile TS-53.
- 2) Clean the protective ditch and reconstruct the protective berm surrounding topsoil stockpile TS-53.

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

- 1) Topsoil salvage, ditch cleanout and berm repairs must be completed by July 4, 2008.

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