DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO BLACK HILLS BENTONITE, LLC ATTN: MR. BRUCE LAWSON BOX 9 MILLS, WY 82644 PERMIT NO. 248C	)))))))	Docket No. 4321-08

NOTICE

NOTICE IS HEREBY GIVEN THAT:

1. A 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 on July 1, 2008 of the mining operations under Permit No. 248(s), Ms. Stacy Page observed numerous tire ruts in Peterson Draw, an ephemeral drainage. Ms. Page also observed two constructed low water crossings of Peterson Draw. One of the low water crossings was not constructed according to the mine plan and the other was constructed so that it blocked flow in the drainage causing the crossings and the area in the drainage above the crossings to become saturated. Heavy equipment used both crossings causing deep tire ruts. Heavy equipment also drove across the drainage in numerous locations where the topsoil had not been stripped.

3. Not constructing the crossing according to the mining plan is a violation of The Wyoming Environmental Quality Act, W.S. § 35-11-415 (b) which states: The operator, pursuant to an approved surface mining permit and mining plan and reclamation plan, or any approved revisions thereto, shall: (ii) Conduct all surface mining and reclamation activities within the permit area in conformity with his approved plan.

4. Affecting areas that have not had the topsoil removed is a violation of The Department of Environmental Quality, Land Quality Rules and Regulations Chapter 3, Section 2(c)(i)(A) which states: All topsoil and 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,

5. 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 THIS NOTICE shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this Notice be interpreted as being a condition precedent to any other enforcement action.

SIGNED this 1st day of August, 2008

John V. Cora
Director
Department of Environmental Quality

Donald R. McKenzie
Administrator
Land Quality Division

Please direct all inquiries regarding this Notice of Violation to Mark Rogaczewski, District III Supervisor, Land Quality Division, District III Office, 1866 S. Sheridan Ave., Sheridan, WY 82801; Telephone (307) 673-9337.

CERTIFIED MAIL RETURN RECEIPT REQUESTED #7007 1492 0001 0736 0111
DOCKET NO. 4321-08
PERMIT NO. 248C

cc: Mr. Mark Rogaczewski, District III Supervisor
Cheyenne File