

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO)
First Energy Services Company.) DOCKET NO. 4354-08
P. O. Box 204)
Wamsutter, WY 82336)
RE: Small Mine Permit 733(s))

NOTICE

NOTICE IS HEREBY GIVEN THAT:

1. Notice of Violation is being sent to you pursuant to W.S. §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.

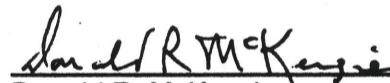
2. On July 23, 2008 the Annual Inspection of the Small Mine Permit 733(s) was conducted by Melissa L. Bautz of the Wyoming Department of Environmental Quality - Land Quality Division, District II office. That inspection was summarized in a report dated August 29, 2008. The operation is located in SW4 SE4 and SE4 SE4 Sec 19, T.20N, R.91W and NW4 NE4 and NE4 NW4 Sec 30, T.20N, R.91W in Sweetwater County, approximately three miles southeast of Creston Junction (Interstate 80).

3. The July 2008 Inspection (refer to Inspection Report dated August 29, 2008) revealed that topsoil is inadequately protected at the Permit 733(s) site. Failure to protect topsoil is a violation of W.S. §35-11-415(b)(iii).

4. A review (refer to letter dated September 2, 2008) of the 2008 Annual Report for Permit 733(s) revealed that no wildlife monitoring survey results were submitted by the operator. Failure to submit an annual wildlife survey constitutes a failure to follow the approved mine plan. Failure to follow the approved mine plan is a violation of W.S. §35-11-415(b)(ii).

5. W.S. § 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 there under 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.

DATED THIS 4th day of September 2008.



Donald R. McKenzie
Administrator
Land Quality Division



John Corra
Director
Department of Environmental Quality

PLEASE DIRECT ALL INQUIRIES regarding this Notice of Violation to Mark Moxley, Land Quality District 2 Supervisor, 510 Meadowview Dr., Lander, Wyoming 82520, telephone (307) 332-3047.