DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

NOTICE OF VIOLATION
AND ORDER

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:	)	
Mr. Rod Bennett **R.S. Bennett Construction Company, Inc.** **and Skyline Construction Company, Inc.** **P.O. Box 1156** **Big Piney, WY 83113**	)	**DOCKET NUMBER 4381-08**
Re: Limited Mining Operations **ET003** **ET935** **Deer Hill** (no permit)	)	

NOTICE

NOTICE IS HEREBY GIVEN THAT:

1. This Notice of Violation 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. Mr. Rod Bennett, doing business as R.S. Bennett Construction and Skyline Construction, is the owner/operator of several gravel pit operations in Sublette County, Wyoming. Cumulatively, violations have occurred over time that have not been addressed by Mr. Bennett, including failure to provide adequate bonding, failure to post permit entrance signs, failure to submit annual reports, and operating without a permit.

3. **Limited Mining Operation No. 003ET** (T29N, R111W, Sec 32, NENE) was originally permitted for 2.5 acres on June 17, 1977. The DEQ holds a bond for this site for $500.00 in the form of a CD with State Bank of Big Piney.

   a. June 21, 2000, Amy Boyle with the DEQ performed a site inspection. The inspection report dated June 6, 2001 stated that the GPS measurement of the disturbed area was 6.1 acres. The report explained to Mr. Bennett that he could either perform reclamation to bring the pit back to less than two acres (commencing that year) and sign a Landowner Assumption of Reclamation Responsibility form, or a bond increase for the additional 3.5 acres at $1,000.00 per acre would need to be submitted to the DEQ. This inspection report also stated that annual reports need to be submitted.

   b. July 16, 2003, the DEQ sent a letter via certified mail stating that their annual report was due.

   c. September 24, 2003 the DEQ sent a letter stating that a bond increase needed to be submitted.

   d. October 14, 2005 the DEQ sent a Letter of Violation via certified mail stating that there had been no response to previous written requests for annual reports or requests for bond increase.

   e. November 11, 2003 Mr. Bennett sent a letter to the DEQ stating in the spring of 2006 they planned extensive earthwork at the site for possible industrial development. The letter also stated that he was totally satisfied with the operation and had signed a Landowner Satisfaction Agreement.

   f. December 13, 2005 the DEQ sent a letter stating that no Landowner Satisfaction Agreement had been received and that additionally this form only applies when a site has been reclaimed and a maximum of two acres remains un-reclaimed for the landowners use. The letter also stated that no annual reports had been received, and again requested that a bond increase be submitted.

   g. September 19, 2007, the DEQ sent a letter to Mr. Bennett documenting that no reclamation had been done, no development been started, no permit sign had been posted, and no bond increase had been received. No annual reports were received by the DEQ from 2000 to 2007.

h. June 19, 2008 the DEQ sent a Letter of Violation via certified mail stating that we intended to issue a Notice of Violation if all items were not addressed by July 1, 2008.

i. As of October 1, 2008, Mr. Bennett has not submitted any notification that he has taken action to correct these violations.

4. **Limited Mining Operation No. 935ET** (T29N, R113W, Sec 25, SWSE) – referred to as the Pan Am Pit. This gravel pit was originally permitted for 3 acres on November 2, 1994. The DEQ holds a bond for this site for $3,000.00 in the form of a CD with Rock Springs National Bank.

   a. June 21, 2000, Amy Boyle with the DEQ performed a site inspection. The inspection report dated August 16, 2000 stated that the GPS measurement of the disturbed area was approximately 10 acres with 3.7 acres reclaimed leaving 6.3 acres active.

   b. November 11, 2005, Mr. Bennett wrote a letter to the DEQ stating that several operators were responsible for the disturbance in this pit. He stated that reclamation would commence spring of 2006.

   c. September 4, 2007, Amy Boyle and Diana Olson with the DEQ performed a site inspection. A GPS measurement of the disturbed area indicated a disturbance of 7.8 acres. According to BLM, Mr. Rod Bennett is responsible for the entire disturbance. This inspection report also stated that a permit sign needed to be posted, topsoil signs needed to be posted, the annual reports submitted were inaccurate and incomplete, and a bond increase needed to be submitted.

   d. June 19, 2008, the DEQ sent a certified Letter of Violation giving a deadline of July 1, 2008 to come into compliance.

   e. September 26, 2008, Diana Olson with the DEQ performed a site visit. A GPS measurement showed 6 acres of disturbance. Extensive earthwork had been performed, but no final contouring or reclamation was evident.

   f. As of October 1, 2008, Mr. Bennett has not submitted any notification that he has taken action to correct these violations.

5. **Deer Hill Pit (no permit)** T30N, R113W, Sec 28 NWNE and Sec 21 SWSE. This is a BLM Community Pit. Mr. Bennett has operated in the Deer Hill pit without a permit. According to BLM, Mr. Bennett is responsible for 4 acres of disturbance.

   a. June 19, 2008, the DEQ sent a certified Letter of Violation stating that Mr. Bennett had operated in the Deer Hill pit without a permit. We indicated that a Form 10 and a bond for $4,000.00 were required. A deadline of July 1, 2008 was given to come into compliance.

   b. As of October 1, 2008, Mr. Bennett has not submitted any notification that he has taken action to correct these violations.

6. Failure to obtain a permit for a mining operation is in violation of Wyoming Statute §35-11-405(a) which states that no mining operation may be commenced or conducted on land for which there is not in effect a valid mining permit to which the operator posses the rights.

7. Failure to post bond is in violation of Wyoming Statute §35-11-401(e) (vii) which requires the operator to file a bond to insure reclamation . . . in the amount of $1,000.00 per acre of affected land.

8. Failure to file an annual report is in violation of Wyoming Statute §35-11-401(k) which states that an operator shall file an annual report on or within 30 days prior to the anniversary date of the operation.

9. Failure to post a permit identification sign at the entrance to the pit, listing the operator's name, address, telephone number, and LQD limited mining operation number, is a violation of Land Quality Division Rules and Regulation, Chapter 10, Section 4.(a).

10. 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.

ORDER

WHEREFORE, IT IS HEREBY ORDERED THAT:

1. Mr. Rod Bennett shall perform the following by November 30, 2008.

   a. ET003
   - i. Post an additional bond for $3,500.00 which will cover 6 acres of disturbance.
   - ii. Post required permit entrance sign.
   - iii. Post required topsoil sign.

   b. ET935
   - i. Post an additional bond for $3,000.00 which will cover 6 acres.
   - ii. Post required permit entrance sign.

   c. Deer Hill
   - i. Submit a Notification for Limited Mine Operation (Form 10) for 4 acres.
   - ii. Post a bond of $4,000.00 to cover 4 acres of disturbance.
   - iii. Post required permit entrance sign.
   - iv. Post required topsoil signs.

THIS ORDER is final and binding, unless not later than ten (10) days after the day the Order is served, it is appealed by filing a written request for a hearing before the Environmental Quality Council. The request should be mailed to:

Chairman
Environmental Quality Council
Herschler Building, 122 West 25th Street
Cheyenne, WY 82002

A copy of the appeal shall be sent to:

Director
Department of Environmental Quality
Herschler Building, 122 West 25th Street
Cheyenne, WY 82002

NOTHING IN THE ORDER shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this order be interpreted as being a condition precedent to any other enforcement action.

ORDERED this 23RD day of October, 2008.

John V. Corra
Director
Department of Environmental Quality

for
Donald R. McKenzie
Administrator
Land Quality Division

Please direct all inquiries regarding this Notice of Violation to Mr. Mark Moxley, Land Quality Division District II Supervisor, 510 Meadowview Dr., Lander, WY 82520, telephone 307-332-3047.

cc: Don McKenzie, LQD Administrator
Mark Moxley, District II, Lander
Environmental Quality Council