

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO)
THREE WAY, INC.) DOCKET NO. 4425-09
ATTN: MR. CHRIS KNUDSON)
P.O. BOX 250)
BUFFALO, WYOMING 82834)
1328ET – LIMITED MINING OPERATION)

NOTICE

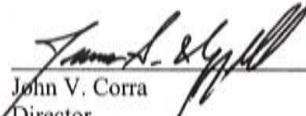
NOTICE IS HEREBY GIVEN THAT:

1. 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. The Wyoming Environmental Quality Act, W. S. §35-11-415(a) states that every operator to whom any permit or license is issued shall comply with all requirements of this act, the rule and regulations promulgated hereunder, and reclamation plans and other terms and conditions of any permit or license. The statute WS § 33-11-502(a)(i) states that no person, except when authorized under the permit system established pursuant to this act, shall locate, construct, operate or close a solid waste management facility.
3. During an inspection performed on February 9, 2009, and while accompanied by Mr. James Curutchet, landowner, and Mr. Chris Jones of Three Way, Inc., Mr. David Schellinger was informed by Mr. Curutchet and Mr. Jones that a salt laden clay material had been imported to the facility from a location near Sheridan, Wyoming, and applied to reclaimed areas of the pit of LMO 1328ET. The materials were later salvaged from the reclaimed surface and were stockpiled in the pit. Mr. Schellinger observed the location on which the materials had been applied to reclamation and the stockpile during his inspection.
4. The Department of Environmental Quality (DEQ) Land Quality Division (LQD) Noncoal Rules and Regulations (Rules), Chapter 3, Section 2(c)(i)(A) states that all topsoil or approved surface material shall be removed from all areas to be affected in the permit prior to these areas being affected unless otherwise authorized by the Administrator and topsoil shall be segregated so as not to be mixed with spoil or waste material and stockpiled in the most advantageous manner and saved for reclamation purposes.
5. During an inspection performed on February 9, 2009, Mr. Schellinger observed large rocks and boulders stockpiled on reclaimed areas of the pit and the sides of the topsoil stockpile. He also observed areas of reclamation that had been significantly impacted by heavy equipment traffic.
6. The DEQ/LQD Rules Chapter 3, Section 2(c)(i)(F) states that if abundant topsoil is present, the Administrator may approve of use of this topsoil by this or another operator in another area for reclamation purposes.
7. During an inspection performed on February 9, 2009, Mr. Schellinger observed that a portion of the topsoil stockpile at LMO 1328ET had been excavated and was removed from the LMO 1328ET mine site. During a phone conversation later that day, Mr. Jones admitted that a Three Way, Inc., equipment operator had removed the topsoil from the pit, mistaking it for the salt laden clay material.

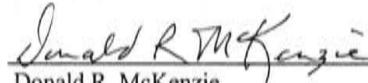
8. Wyoming Statute §35-11-901(a) provides that any person who violates any provision of the Environmental Quality Act or any rule, standard, permit, license or variance adopted hereunder is liable to a penalty of ten thousand dollars (\$10,000.00) for each day of violation, which penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming.

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

SIGNED this 27 day of February, 2009



John V. Corra
Director
Department of Environmental Quality



Donald R. McKenzie
Administrator
Land Quality Division

Please direct all inquires regarding this Notice of Violation to Mr. Mark Rogaczewski, District III Supervisor, Wyoming Department of Environmental Quality/Land Quality Division, 1866 South Sheridan Avenue, Sheridan, WY, 82801

1328ET - LIMITED MINING OPERATION

cc: Mark Rogaczewski, LQD DIII
Cheyenne LQD File