

STATE OF WYOMING
DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION
HERSCHLER BUILDING, 122 W. 25TH ST
CHEYENNE, WY 82002
TELEPHONE: (307) 777-7756
COAL PROGRAM
NOTICE OF VIOLATION (NOTICE)

N.O.V. No. 100559
Permit No. N/A
Docket No. 4494-09

To the Following Permittee or Operator or Licensee: Shawn Seebaum & Joe Strobbe
WESCO
P.O. Box 40
Wright, WY 82732

Name: WESCO

Mine: N/A, Blasting Contractor in PRB County: Campbell & Converse Telephone: (307) 464-0234

Surface: Underground: _____ Other:

Mailing Address: P.O. Box 40
Wright, WY 82732

Date of Inspection: N/A, Complaint Received May 4, 2009

Time of Inspection: N/A, Complaint Investigation Conducted Between May 4 and May 20, 2009

Name of Operator (if other than permittee): same

Mailing Address: same

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 a complaint investigation of the above mine operator on the dates above and has found violation(s) of the ACT, the regulations or required permit condition(s) *listed on page 3 of this document*. 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 blasting is _____ is not expressly or in practical effect required by this Notice. For this purpose "blasting" means loading holes, tying-in shots and initiating shots.

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.

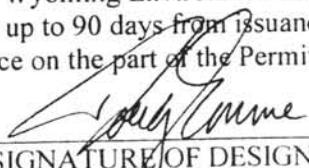
DATE OF SERVICE: MAY 20, 2009

MANNER OF SERVICE: CERTIFIED MAIL

PROOF OF SERVICE: RETURN RECEIPT

PERSON SERVED WITH NOTICE: SHAWN SEEBAUM

CC: CHEYENNE & SHERIDAN LQD OFFICES
OSM - CASPER FIELD OFFICE


SIGNATURE OF DESIGNATED REPRESENTATIVE

DOUG EMME - BLASTING ENGINEER
PRINTED NAME

RECEIVED
MAY 22 2009
LQD

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.25th St.
Cheyenne, WY 82002

RECEIVED
MAY 22 2009
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.

Nature of the Violation

WESCO is an operator under Wyoming Statute 35-11-103 (e) (ix).

On May 4, 2009, a complaint was received by the LQD alleging a WESCO blasting recertification training event had not occurred.

LQD conducted a complaint investigation between May 4 and May 20, 2009 and found: WESCO represented to the LQD that a WESCO 3 day 24-hour blaster recertification training class was held February 24-26, 2009 in the WESCO Office at Wright. WESCO provided a roster of class attendees and the instructor to the LQD. The class instructor did not teach the class and the listed class attendees did not attend the class.

As a result of the class, two WESCO employees, Mr. Jerry Huguen and Mr. Marty Davies, obtained recertification based upon training credits from a WESCO class that did not occur.

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

LQD R& Regulations Chapter 6, Section 6(h) (i) (D) requires blasting certification to be revoked or suspended upon a finding that false information or misrepresentation was used to obtain certification.

Portion of the Operation to which Notice Applies

WESCO blasting operations in Wyoming.

Remedial Action Required (including interim steps, if any)

- 1) Blasting certificates for Mr. Huguen and Mr. Davies are suspended under LQD Coal R&R Chapter 6 Section 6 (h) (i). Both must acquire LQD approved training and retest to renew their respective blasting certificates.
- 2) Blasting certificates for Mr. Shawn Seebaum and Mr. Joe Strubbe are revoked under LQD Coal R&R Chapter 6 Section 6 (h) (i).
- 3) WESCO shall provide documentation to the LQD that all of WESCO's Wyoming certified blasters are properly certified.
- 4) LQD will no longer accept certification credit for WESCO blasting training.

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

- 1) Mr. Huguen and Mr. Davies shall obtain LQD approved training and retest for their certificates within 90 days of the issuance of this Notice.
- 2) Mr. Seebaum and Mr. Strubbe shall immediately surrender their certificates to the LQD under LQD R&R Chapter 6 Section 6 (h) (iii).
- 3) WESCO shall submit documentation to the LQD within 45 days of the issuance of this Notice to confirm WESCO's Wyoming blasters are properly certified.
- 4) WESCO blasting training is no longer acceptable to the LQD for certification credit as of the issuance date of this Notice.

RECEIVED
MAY 22 2009