

**DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF)	
VIOLATION ISSUED TO)	
TRISTATE CONSTRUCTION)	DOCKET NO. 4553-09
ATTN: MR. MIKE WATSON)	
MANAGER)	
P.O. BOX 627)	
BELLE FOURCHE, SD 57717)	
1428ET – LIMITED MINING OPERATION)	

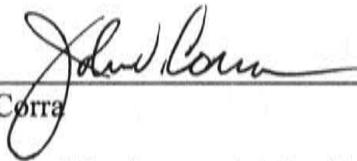
NOTICE

NOTICE IS HEREBY GIVEN THAT:

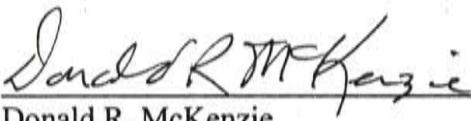
1. Notice of Violation (NOV) is being sent to you pursuant to Wyoming Statute §35-11-701(c)(i) which requires that a written notice shall be issued in the case of failure to correct or remedy an alleged violation.
2. The Wyoming Environmental Quality Act, W. S. § 35-11-401(e)(vi) allows a permit exemption for surface mining operations, whether commercial or noncommercial, for the removal of sand, gravel, scoria, limestone, dolomite, shale, ballast, or feldspar from an area of ten (10) acres or less.
3. During inspections performed on July 30, 2009, Mr. Glenn Mooney mapped the disturbances associated with Limited Mining Operation (LMO) 1428ET using a Global Positioning System. The mapped disturbances equaled approximately 12.5 acres; 2.5 acres greater than the 10 acres allowed under a LMO by Wyoming State statutes.
4. The Department of Environmental Quality, Land Quality Division Noncoal Rules and Regulations Chapter 3, Section 2(c)(i)(A) states all topsoil shall be removed from all areas to be affected prior to these areas being affected.
5. During the July 30, 2009, inspection of LMO 1428ET Mr. Glenn Mooney observed disturbance of native vegetation and topsoil where equipment had been operated on areas where topsoil had not been salvaged at LMO 1428ET. Equipment was also observed parked on stockpiled topsoil.
6. During the July 30, 2009, inspection of LMO 1428ET Mr. Glenn Mooney observed equipment parked within the pit which was later identified as belonging to TriState Construction, LLC, of Belle Fourche, SD. Limited Mining Operation 1428ET is issued to Lee Jay of Hulett, Wyoming.
7. Land Quality Division NonCoal Rules and Regulations, Chapter 10, Section 6(a) provides that the right to mine to operate under a limited mining operation may be transferred to a new operator with the written approval of the existing operator and written acceptance by the Administrator providing the new operator submits a new Form 10 and bond and assumes the reclamation liabilities of the existing operator. No such notice was provided to the Administrator nor was a new Form 10 and bond submitted.
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 8 day of September, 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

1428ET – LIMITED MINING OPERATION

cc: Mark Rogaczewski, LQD
file, 1428ET