DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

NOTICE OF VIOLATION
AND ORDER

IN THE MATTER OF THE NOTICE OF	)	
VIOLATION ISSUED TO	)	
FISHTAIL CATTLE COMPANY	)	**DOCKET NO. 4763 -10**
ATTN: MR. LEE WRIGHT	)	
P.O. BOX 298	)	
PINEDALE, WY 82941	)	
RE: LIMITED MINING OPERATION NO. 831ET	)	

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. On October 12, 2010, an Annual Inspection of Fishtail Cattle Company (FCC), Limited Mining Operation No. 831ET, was conducted by Ms. Tanya King of the Land Quality Division, District II. The pit is located in the SE¼NW¼ Sec. 7, T.33N., R.108W., Sublette County, Wyoming.

3. The inspection revealed that a proper Limited Mining Operation identification sign was not posted at the entrance to the operation.

4. Failure to post and maintain a sign showing the operator's name, address, and telephone number and the LQD Limited Mining Operation number is a violation of Land Quality Division Non- Coal Rules and Regulations, Chapter 10, Section 4(a).

5. The inspection revealed that topsoil stockpiles were not identified by signs.

6. Failure to clearly identify topsoil stockpiles with signs is a violation of Land Quality Division Non-Coal Rules and Regulations, Chapter 10, Section 4(b).

7. Fishtail Cattle Company failed to file annual reports in January of 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2009, and 2010.

8. Failure to file an annual report is a 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. The anniversary date for 831ET is January 15th.

9. Fishtail Cattle Company has failed to backfill the east highwall to the required 3:1 slope.

10. Failure to constructed backfilled slopes at a ratio greater than 3:1 is in violation of Land Quality Division Non-Coal Rules and Regulations, Chapter 10, Section 4. (b)(vii).

11. These violations have not been corrected or remedied nor has the operator provided any information to the Land Quality Division concerning the violations. The operator has been contacted many times regarding the issues cited and has had ample opportunity to act on the issues and follow through with his own time lines for reclamation.

    a.) September 12, 2000 a letter was sent requesting the 2000 Annual Report.

    b.) October 4, 2006 the annual inspection report was sent certified, requiring the permit sign be changed, topsoil signs be installed and grading be done on the highwall. This report also required that grading to achieve the minimum 3:1 slope be completed before winter.

c.) April 19, 2007 a certified letter was sent stating the need for an approved permit sign, topsoil stockpile signs and grading of the east highwall or face a NOV.

d.) December 21, 2007 the Approval Of Amendment to Ten Acre Exemption letter from Deanna Hill clearly specifies that the operator is required to post a pit entrance sign stating the operator name, address and telephone number, operator's authorize agent and the LMO number.

e.) July 17, 2008 the Annual Inspection Report by Diana Olson required topsoil signs to be placed on piles.

f.) October 12, 2009 during a telephone conversation between Ms. Tanya King of WDEQ/LQD and Mr. Lee Wright of Fishtail Cattle Co., Mr. Wright committed to compete the grading during 2009.

g.) October 20, 2009, the Annual Inspection Report by Ms. Tanya King required the permit sign be modified, topsoil sign to be installed on stockpiles, provide the annual report for the period ending January 15, 2009.

h.) November 4, 2010 the Annual Inspection Report for 2010 requires the permit sign be modified, topsoil signs installed, provide annual reports which were due in January 2009 and 2010.

ORDER

WHEREFORE, IT IS HEREBY ORDERED THAT:

1. Mr. Lee Wright shall perform the following by January 15, 2011:

   a.) Post required permit entrance sign showing operator's name, address and telephone number, the operator's local authorized agent and the Limited Mining Operation number 831ET.

   b.) Post required topsoil signs on each topsoil stockpile.

   c.) Submit Annual Reports for the periods ending January 15, 2009 and 2010.

   d.) Post an additional bond for $5,100 to cover backfilling waste concrete and asphalt against the toe of the highwall, covering with four feet (4') of soil and grading of the east highwall to achieve a 3:1 slope. This will raise the total bond for this operation to $10,000.

2. Mr. Lee Wright shall perform the following by October 31, 2011:

   a.) Complete reclamation of the east highwall, including backfilling waste concrete and asphalt against the toe of the highwall, covering the concrete and asphalt with four feet (4') of soil, grading to achieve a 3:1 slope and seeding with a seed mix approved by LQD.

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 15th day of November, 2010.

John V. Corra
Director
Department of Environmental Quality

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