Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Matthew Mead, Governor

John Corra, Director

CERTIFIED MAIL, RETURN RECEIPT REQUESTED # 7007 1490 0002 1624 1615

March 16, 2011

Mr. Lucas Bitterle
Black Butte Coal Company
P.O. Box 98
Point of Rocks, WY 82942

LQD
MAR 18 11
RECEIVED

RE: Minor Violation – Coal Operation,
Permit No. 467, Black Butte Coal Company – Black Butte Mine, Docket # 4821-11, NOV # 100564

Dear Mr. Bitterle,

Enclosed you will find a Minor Violation issued under the provisions of W.S.§ 35-11-415(b)(iii) and WyDEQ/LQD Coal Rules and Regulations, Chapter 4, Section 2 (c)(i)(A) and (B). The Minor Violation is based on the inspection conducted by me on March 10, 2010. The violation noted is for: (a) Failure to protect topsoil or an adequate substitute from contamination and loss and (b) Failure to adequately salvage top and sub soil. Documentation of my observations is available in the March 2011 Monthly Inspection Report.

The Wyoming Department of Environmental Quality / Land Quality Division (WyDEQ/LQD) is attempting to resolve these issues without further enforcement action. The Minor Violation contains specified resolution tasks and completion time frames. Once the remedial action is complete, BBCC is to provide photo documentation of the effort.

Should you have any questions, please contact me or Mr. Mark Moxley.

Respectfully,

Brian R. Wood
District II Hydrologist
WyDEQ – Land Quality Division

Enclosure: Minor Violation

cc: WyDEQ/LQD Cheyenne, Permit 467 Correspondence File
Mark Moxley > LQD-District II Permit 467 Correspondence File
Brian Wood, Chron File

STATE OF WYOMING
DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION
HERSCHLER BUILDING 3W
122 WEST 25TH STREET
CHEYENNE, WY 82002

MINOR VIOLATION NOTICE – COAL OPERATION

PERMITTEE: Black Butte Coal Company

MINE: Black Butte Mine, WyDEQ/LQD Permit No. 467

ADDRESS: P.O. Box 98
Point of Rocks, WY 82942
(307) 382-6200

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INSPECTION DATE: March 10, 2011

INSPECTION TIME: 7:30 am to 11:30 am

Under the authority of the Wyoming Environmental Quality Act of 1973 (Act) , as amended, the undersigned designated representative of the Director has conducted an inspection of the above mine on the above date and found a minor violation of the Act, the WyDEQ/LQD Coal Rules and Regulations, approved mine permit condition(s) or approved permit commitments listed in the attached. This notice constitutes a separate Minor Violation for each violation listed.

The permittee/operator must abate each of these violations within the designated abatement time. The permittee/operator is responsible for doing all work in a safe and workmanlike manner.

The Minor Violation shall remain in effect until it expires as provided for on Page 2 or is modified, terminated, or vacated by written notice of the designated representative or the Environmental Quality Council. Time for abatement may be extended by the designated representative beyond 35 days and up to 90 days from issuance of the original Minor Violation Notice, if the failure to the time previously set was not caused by lack of diligence on the part of the permittee/operator. If the original Minor Violation(s) is/are not fully abated within the original abatement period and if the abatement period is not formally extended as noted above, this Minor Violation will be formally upgraded to a full Notice of Violation.

Brian R. Wood
District II Hydrologist
WyDEQ/LQD

3/15/2011
Date

1. Formal Review and Temporary Relief: If the permittee/operator (you) desires an informal conference with the WyDEQ Director, you or your authorized agent must apply for the conference of this Notice by submitting an application for review, within 30 days of the Notice to:

   Director
   Wyoming Department of Environmental Quality
   Herschler Building, 4W
   122 West 25th Street
   Cheyenne, WY 82002

   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)(iii) and (e) and WyDEQ/LQD Coal Rules and Regulations, Chapter 16, Section 2.

2. Informal Review: You may submit information in writing pertaining to the violation(s) covered by this Notice within 15 days of the date it is served to you or your agent and request an informal conference with the Director. This information will be considered in determining the facts surrounding the violation(s).

3. Failure to Abate: If you fail to abate any of the violations within the time for abatement or for meeting any interim step, this Minor Violation will be formally upgraded to a formal Notice of Violation. A formal Notice of Violation includes the possibility of a financial penalty.

4. Effect on the Permit: A Minor Violation will not be counted toward a pattern of violations unless more than two Minor Violations were/are issued for similar infractions during a 12 month period.

5. For Further Information, Please Consult: W.S. § 35-11-409 (c), W.S. § 35-11-437, and WyDEQ/LQD Chapter 16, Section 2.

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Nature of the Violation: (a) Failure to adequately salvage topsoil and approved surface materials – Soil salvage at the east end of the Pit 11, north end-wall spoil dump is incomplete, a minimum of 12 inches of top and sub soil remain un-salvaged. (b) Failure to protect topsoil and approved surface material from contamination and loss – A windrow of topsoil is located on the highwall side of Pit 11, approximately half way between Ramps 1 and 2. Directly west of the windrow, an overburden shot pattern has been drilled and when shot has the possibility of being contaminated by flyrock.

Provisions of the WyDEQ/LQD Coal Regulations, Act, or Permit Violated: The above actions violate W.S. § 35-11-415 (b)(iii) and WyDEQ/LQD Coal Regulations Chapter 4, Section 2 (c)(i)(A) and (B).

Portion of the Operation to which Notice Applies: This Notice applies to top and sub soil salvage operation in the vicinity of the Pit 11 highwall.

Remedial Action(s) Required: (a) Salvage and stockpile all top and sub soil from the area around the east end of the north end-wall spoil dump, (b) Move the salvaged top and sub soil windrow from its current location on the highwall to an established topsoil stockpile located away from mining activity, and (c) reestablish the buffer between the north face of the north endwall spoil and native ground.

Time for Abatement: Black Butte Coal Company has 30 days from the date of this Notice to complete Action Items (a) and (c) above. Action Item (b) must be completed before the adjacent overburden shot is fired.