

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

N.O.V. No. 100190
Permit No. 233-T7
Docket No. 4106-07

To the Following Permittee or Operator or Licensee:

Name: Thunder Basin Coal Company

Mine: Black Thunder Mine County: Campbell Telephone: (307) 464-2113

Surface: _____ Underground: _____ Other: _____

Mailing Address: P.O. Box 406

Wright, WY 82732-0406

Date of Inspection: July 11, 2007

Time of Inspection: from 8:20 AM to 3:10 PM

Name of Operator (if other than permittee): _____

Mailing Address: N/A

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 an inspection of the above mine on the above date and has found violation(s) of the Act., the regulations or required permit condition(s) *listed in the attachment(s)*. 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 mining is _____ is not expressly or in practical effect required by this Notice. For this purpose "mining" means extracting coal from the earth or a waste pile and transporting it within or from the permit area.

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: JULY 12, 2007

SIGNATURE OF DESIGNATED REPRESENTATIVE:

MANNER OF SERVICE: CERTIFIED MAIL NO. 7005 1160 0001 6423 7368

PROOF OF SERVICE: RETURN RECEIPT REQUESTED

PRINTED NAME: DOUG EMME

PERSON SERVED WITH NOTICE: WENDY HUTCHINSON

CC: CHEYENNE LQD
DISTRICT OFFICE
OSM - CASPER FIELD OFFICE

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

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.

Violation No. 1 of 1

Nature of the Violation

Blasting cap magazine was found unlocked and unattended. The last inventory entry was on July 8, 2007, three days prior to the inspection.

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

Chapter 6, Section 1.(a) The permittee shall comply with all applicable State, local, and Federal laws and regulations and the requirements of this Chapter in the use of explosives.

Reference:

30 CFR 77.1301 (c)(8) Magazines other than box type shall be kept locked securely when unattended.

27 CFR 55.205 All explosives materials must be kept in locked magazines meeting the standards in this subpart unless they are: (a) in the process of manufacture; (b) being physically handled in the operating process of a licensee or user; (c) being used; or (d) being transported to a place of storage or used by a licensee or permittee or by a person who has lawfully acquired explosive materials under § 55.106.

Wyoming Statutes: Title 30 – Mines and Minerals, Chapter 2, Article 6, 30-2-604 Requirements as to surface magazines - (vi) Kept locked securely when unattended.

Portion of the Operation to which Notice Applies

Explosives storage.

Remedial Action Required (including interim steps, if any)

Black Thunder Mine must meet with all blasters and supervisors that have access to the magazines and discuss the importance of proper security of magazines and explosive materials.

Black Thunder must modify the hoods on the magazine that was found unlocked since Mr. Jerry Marshall, Black Thunder D&B and Dragline Supervisor, discovered that they were too small to allow easy locking of the padlocks.

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

Black Thunder Mine should submit a summary of the meeting and an attendance list to LQD-District III by July 30, 2007.

Black Thunder Mine should also notify LQD-District III when the repairs to the magazine are complete. This should also be done by July 30, 2007.