

**DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF)	
VIOLATION ISSUED TO)	
MELGAARD CONSTRUCTION CO., INC.)	DOCKET NO. 4904-11
ATTN: MR. JOHN MELGAARD SR.)	
P.O. BOX 2408)	
GILLETTE, WYOMING 82717-2408)	
774(S) – SMALL MINE PERMIT)	

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, Statute WS § 35-11-415(b)(i) states that the operator, pursuant to an approved surface mining permit and mining plan and reclamation plan, or any approved revisions thereto, shall conspicuously post and maintain at each entrance to the operation, a sign which clearly shows the name, address and telephone number of the operator, the name of his local authorized agent, and the permit number of his operation.
3. During the inspection performed on September 22, 2011, Mr. David Schellinger documented that the entrance sign did not contain the correct permit number, but identified the operation as the former Limited Mining Operation 1180ET.
4. The WDEQ/LQD Noncoal Rules and Regulations, Chapter 3, Section 2(c)(i)(D) states that topsoil stockpiles shall be marked with a legible sign containing letters not less than six inches high on all approach roads to such stockpiles. Said signs shall contain the word "topsoil"...
5. During the inspection performed on September 22, 2011, Mr. Schellinger documented that the topsoil stockpiles at the permit were not identified by topsoil signs.
6. The Wyoming Environmental Quality Act, Statute WS § 35-11-415(b)(ii) states that the operator, pursuant to an approved surface mining permit and mining plan and reclamation plan, or any approved revisions thereto, shall conduct all surface mining and reclamation activities within the permit area in conformity with his approved plan.
7. During the inspection performed on September 22, 2011, Mr. Schellinger documented that the topsoil stockpiles at the permit were not placed in the designated locations approved in the permit mine plan. Following the inspection performed on September 22, 2011, Mr. Schellinger confirmed that the current active pit perimeter mapped during the inspection performed on the same day using a hand-held GPS unit was disturbed greater than two years before the approved pit progression in the permit mine plan.
8. The WDEQ/LQD Noncoal Rules and Regulations, Chapter 3, Section 2(c)(i)(A) states that all topsoil or approved surface material shall be removed from all areas to be affected in the permit area prior to these areas being affected unless otherwise authorized by the Administrator. The topsoil may be mixed with the subsoil but shall be segregated so as not to become mixed with spoil or waste material, stockpiled in the most advantageous manner and saved for reclamation purposes.

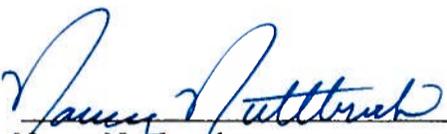
9. During the inspection performed on September 22, 2011, Mr. Schellinger documented that topsoil on the southeast pit edge had been buried under a berm of materials from the pit. A topsoil stockpile on the northwest pit edge had been constructed in such a close proximity to the pit highwall that it could readily erode into the pit. The western end of this stockpile was also placed in contact with rock and processed materials stockpiled in the area prior to construction of the topsoil stockpile.
10. 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 29th day of September, 2011



John V. Corra
Director
Department of Environmental Quality



Nancy Nuffbrock
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, 2100 West 5th Street, Sheridan, WY, 82801

744(s) – SMALL MINING OPERATION

cc: Mark Rogaczewski, LQD
file, Permit No. 774(s)