

**DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF)	
VIOLATION ISSUED TO)	
INDIAN PIPE CATTLE CO. DBA SUSSEX SAND &)	
GRAVEL)	DOCKET NO. 5068-12
ATTN: MR. JAMES W. ULLERY)	
1645 SUSSEX ROAD)	
KAYCEE, WY 82639)	
889ET – LIMITED MINING OPERATION)	

NOTICE

NOTICE IS HEREBY GIVEN THAT:

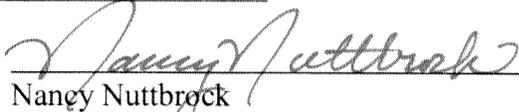
1. Notice of Violation (NOV) is being sent to you pursuant to Wyoming Statute §35-11-701(c)(i) which requires that a written notice shall be issued in the case of failure to correct or remedy an alleged violation.
2. The Department of Environmental Quality, Land Quality Division Noncoal Rules and Regulations Chapter 10, Section 4(b) states that “All topsoil from affected lands shall be saved and stockpiled in such a manner to minimize wind and water erosion. Such stockpiles shall be identified by a sign.”
3. During his inspection performed on September 27, 2012, Mr. David Schellinger observed that processed material stockpiles had been placed on areas where topsoil had not been stripped and salvaged. Mr. Schellinger also observed areas where mining equipment had been operated and stored where topsoil had not been stripped and salvaged.
4. The Department of Environmental Quality, Land Quality Division Noncoal Rules and Regulations Chapter 10, Section 6(b) states that the operator may allow contractors to operate within its limited mining area provided notice is given to the Division and the contractor meets the other requirements of the Division, including the filing of Form 10.
5. During the September 27, 2012 inspection of LMO 889ET, Mr. Schellinger observed Quality Aggregate & Construction, Inc. crushing and screening in the LMO. A representative of this company explained to Mr. Schellinger that Fuller Construction, Inc. had contracted them to crush and screen. A telephone conversation with Mr. James Ullery of Sussex Sand & Gravel confirmed that Fuller Construction, Inc. was allowed to operate in the pit. No prior notification was provided by Sussex Sand & Gravel to the LQD for the change of operators in this pit.
6. The Wyoming Environmental Quality Act, W.S. § 35-11-401(e)(vi and vii) state that for surface mining operations of sand, gravel, scoria, limestone, dolomite, shale, ballast or feldspar, before commencing any mining operations, shall file a bond to insure reclamation in accordance with the purposes of this act in the amount of one thousand dollars (\$1,000) per acre of affected land.
7. During the inspection performed on September 27, 2012, Mr. Schellinger, using a hand-held GPS mapping unit, walked the perimeter of the current disturbance attributed to mining operations and estimated the disturbance attributed to mining activity to be approximately 5.3 acres, 1.3 acres more than the approved and bonded 4 acre limit.
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 10th day of October, 2012



John V. Corra
Director
Department of Environmental Quality



Nancy Nuttbrock
Administrator
Land Quality Division

Please direct all inquiries 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

889ET – LIMITED MINING OPERATION

cc: Mark Rogaczewski, LQD
file, 889ET