

**DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF VIOLATION ISSUED TO:)
)
) **DOCKET NO. 5072-12**
ATTN: MR. BERT DALE)
B & B AGGREGATE)
505 EAST WASHINGTON)
RIVERTON, WY 82501)

OPERATOR, 1479ET – LIMITED MINING OPERATION)

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)
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NOTICE

NOTICE IS HEREBY GIVEN THAT:

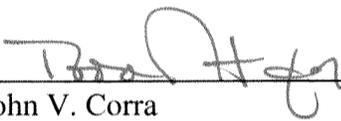
1. Notice of Violation (NOV) is being sent to you pursuant to Wyoming Statute §35-11-701(c)(i) which requires that a written notice shall be issued in the case of failure to correct or remedy an alleged violation.
2. The Department of Environmental Quality, Land Quality Division Noncoal Rules and Regulations Chapter 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.
3. During his inspection performed on September 27, 2012, Mr. David Schellinger observed that a road had been constructed between the east and west pit disturbances on an area where topsoil had not been salvaged. Several observations were made of gravel berms being constructed on areas where topsoil had not been salvaged. Processed materials were also observed spilled over the northern edge of the west pit disturbance onto native topsoil. Clods of topsoil were observed mixed with gravel berms in several locations of the west pit disturbances.
4. The Department of Environmental Quality, Land Quality Division Noncoal Rules and Regulations Chapter 3, Section 2(c)(i)(A) states that the topsoil 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.
5. During his inspection performed on September 27, 2012, Mr. David Schellinger observed a portion of a topsoil stockpile was mixed with gravel material in a road constructed between the east and west pit disturbances. Also, a topsoil stockpile on the western edge of the west pit disturbance appears to have been mixed with materials from the pit.
6. The Department of Environmental Quality, Land Quality Division Noncoal Rules and Regulations Chapter 3, Section 2(c)(i)(B) states all topsoil from affected lands shall be stockpiled on stable areas within the permit area in such a manner so as to minimize wind and water erosion and unnecessary compaction.
7. During his inspection performed on September 27, 2012, Mr. David Schellinger observed a topsoil stockpile on the east pit disturbance pushed into a steep sided pile to facilitate construction of a road between the east and west pits. No protection was provided to prevent sloughing or erosion of the stockpiled topsoil onto the adjacent road.
8. The Department of Environmental Quality, Land Quality Division Noncoal Rules and Regulations Chapter 10, Section 4(c) states that in no case shall materials be pushed or dumped over natural escarpments.
9. During his inspection performed on September 27, 2012, Mr. David Schellinger observed that the operator had pushed both topsoil and other pit materials into a draw located between the east and west pits during road construction between the pits, and processed materials and other materials from the pit were spilled over the northern edge of the west pit disturbance.
10. The Wyoming Environmental Quality Act, W. S. § 35-11-401(e)(vi) allows a permit

exemption for surface mining operations, whether commercial or noncommercial, for the removal of sand, gravel, scoria, limestone, dolomite, shale, ballast, or feldspar from an area of ten (10) acres or less.

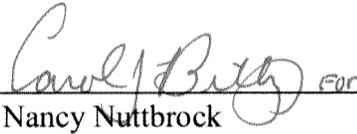
11. During the inspection performed on September 27, 2012, Mr. Schellinger, using a hand-held GPS mapping unit, walked the perimeter of the current disturbance attributed to mining operations and estimated the disturbance attributed to mining activity to be approximately 10.9 acres.
12. Wyoming Statute §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 11th 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

1479ET – LIMITED MINING OPERATION

cc: Mark Rogaczewski, LQD
file, 1479ET