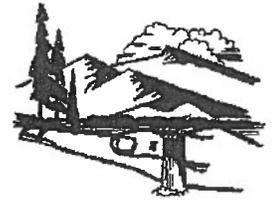




Department of Environmental Quality

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



Matthew H. Mead, Governor

Todd Parfitt, Director

January 8, 2015

CERTIFIED MAIL RETURN RECEIPT REQUESTED 7013 0600 0002 3992 5010

Mr. Dave Hout
Hout Fencing of Wyoming, Inc.
P.O. Box 13
Worland, WY 82401

RE: Termination of Notice of Violation (Docket No.) 5027-12, LMO 1520ET, Hout Fencing of Wyoming, Inc.

Dear Mr. Hout,

This letter serves as the Land Quality Division's Notice of Termination for Notice of Violation (Docket No.) 5027-12 to Hout Fencing of Wyoming, Inc. (Hout Fencing). As noted in our December 12, 2014 letter, the compliance work required to abate the Settlement Agreement Compliance Issue 4.C was determined to be completed and Compliance Issue 4.C terminated. The required compliance work for Settlement Agreement Compliance Issue 4.B has been partially completed by Hout Fencing. The required compliance work for Settlement Agreement Compliance Issue 4.A has not been addressed by Hout Fencing. A summary of the history and actions for NOV (Docket No.) 5027-12 is attached.

Notice of Violation (Docket No.) 5027-12 Settlement Agreement Compliance Items 4.A and 4.B will be modified to reflect the current field conditions and WDEQ regulations, and then carried forward under a new Notice of Violation.

If you have any questions or comments, please contact Mr. Robin Jones, LQD District I Supervisor at (307) 777-8956 (or robin.jones@wyo.gov) or you may contact me at (307) 777-7070 (or rich.vincent@wyo.gov).

Sincerely,

Richard Vincent
LQD District 1 LMO Coordinator
WDEQ-Land Quality Division

Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH (307) 777-7758 FAX 777-7682	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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SUMMARY NOV 5027-12 AND STATUS OF COMPLIANCE ISSUES (1/8/15)

Summary of NOV Docket 5027-12

- 8/1/12 Notice of Violation (Docket No.) 5027-12 was issued to Hout Fencing of Wyoming, Inc. (Hout Fencing) for: 1) exceeding the maximum allowable acreage; 2) failure to salvage all suitable topsoil from the disturbed areas and failure to protect topsoil from wind and water erosion; and 3) failure to post topsoil stockpile signs.
- 10/1/12 The Settlement Agreement for NOV 5027-12 was signed. The Settlement Agreement required a payment of penalty for the original violations and contained three specific remedial actions (Items 4.A, 4.B, and 4.C) to be completed by **November 15, 2012**.
- 10/2/12 Letter sent to Mr. Dave Hout (Hout Fencing) containing signed copy of the Settlement Agreement.
- 10/3/12 Penalty check for \$1,750 was received by the LQD. Letter sent to Mr. Hout (Hout Fencing) containing a receipt for the penalty check received.
- 11/15/12 None of the remedial actions were completed by Hout Fencing.
- 11/20/12 Letter sent to Mr. Hout (Hout Fencing) stating they had not submitted documentation that the Settlement Agreement required Compliance Actions had been completed by 11/15/12. Letter contained a follow-up to the Settlement Agreement letter noting that the original Settlement Agreement required Hout Fencing to complete the Compliance Actions by 11/15/12 or pay an additional \$1,750 penalty and extending the deadlines for completion of the Settlement Agreement requirement Compliance Actions to **April 30, 2013**.
- 12/4/12 The second penalty check for \$1,750 was received by the LQD. Letter sent to Mr. Hout (Hout Fencing) containing a receipt for the second penalty check received.
- 2/20/13 E-Mail sent from LQD to Ms. Heidi Brightly, Hout Fencing environmental staff-person, stating the deadline to submit an LMO amendment was extended to **July 1, 2013** (expected date of approval for new LQD regulations allowing up to 15 acres of disturbance for LMOs).
- 5/21/13 LQD phone call to Mr. Hout explaining he could leave the requested LMO disturbance acreage greater than 10 acres (but less than 15 acres) un-reclaimed and instead submit an LMO Amendment Application (which required the submittal of a new LMO Application Form and increased bond, at a minimum) **during July 2013**.
- 5/30/13 LQD phone call to Mr. Hout explaining he could leave the requested LMO disturbance acreage greater than 10 acres (but less than 15 acres) un-reclaimed and instead submit an LMO Amendment Application (which required the submittal of a new LMO Application Form and increased bond, at a minimum) **during July 2013**.
- 6/7/13 LQD Annual Inspection. During the inspection Richard Vincent again reiterated to Mr. Hout that he could leave the requested LMO disturbance acreage greater than 10 acres (but less than 15 acres) un-reclaimed and instead submit an LMO Amendment Application (which required the submittal of a new LMO Application Form and increased bond, at a minimum) **during July 2013**. Additional topsoil consolidation (salvage), protection and signage issues were discussed with the operator in the field.

- 8/30/13 The LQD sent the 2013 Inspection Report and cover letter (certified mail 7012 2210 0001 4162 3406, received by Michelle Hernandez on 9/5/13). The report and cover letter again, extended the deadlines to fulfill NOV 5027-12 Settlement Agreement Compliance Action Item 4.A to September 30, 2013, and Items 4.B and 4.C to **November 15, 2013**.
- 11/4/13 Letter sent to Mr. Hout (Hout Fencing) (certified letter 7012 2210 0001 4162 3581 and via an e-mail) extending the deadline for fulfilling NOV 5027-12 Settlement Agreement Item 4.A to **November 30, 2013**. The letter and e-mail (also copied to Ms. Brightly) contained information and directions for how to meet the required compliance actions.
- 2/11/14 Compliance Action Letter sent to Mr. Hout (Hout Fencing) (certified letter 7012 2210 0001 4162 4540). The letter extended the deadlines to fulfill work for compliance Items 4.A, 4.B, and 4.C to **March 30, 2014**.
- 4/16/14 E-mail sent to Mr. Hout (Hout Fencing; copied Niles Veal) stating the March 30, 2014 deadline to fulfill work for compliance Items 4.A, 4.B, and 4.C had passed and the LQD had not been contacted by Hour Fencing. The e-mail contained an extensive summary of the NOV and other compliance issues.
- 4/17/14 LQD received an e-mail from Ms. Melanie Hout (Hout Fencing) stating she would be out of the office on the afternoon of 4/17 and she would review paperwork evening, discuss the requirements with Mr. Veal, and may contact the LQD on 4/18 with questions.
- 6/4/14 Richard Vincent, LQD called Mr. Hout (Hout Fencing) while the inspector was in the field, in response to phone message received earlier that day. The status of the NOV, lack of compliance action/abatement work, and Hout Fencing's lack of communication with the LQD were discussed.
- 6/5/14 Ms. Hout (Hout Fencing) called the LQD (Richard Vincent) with questions about completing the LMO Application Form and stated she was meeting with the bank shortly and would have the application in the mail by the end of the week. The LQD requested she fax us a copy of the application as soon as it was filled-out. A draft, unsigned PDF version of the LMO Amendment Application Form was e-mailed to the LQD. Errors were noted, but the LQD was prepared to make the necessary form corrections to original, signed LMO Application Form when it was submitted.
- 6/24/14 LQD Annual Inspection. Richard Vincent, LQD inspected the field status of topsoil salvage, topsoil protection from wind and/or water erosion, and topsoil sign posting compliance issues. Some topsoil consolidation (salvage) work had been completed since 6/7/13. Additional topsoil salvage was needed, a topsoil sign was needed on a new topsoil stockpile, and all topsoil stockpiles needed to be stabilized to protect the soil resource from wind/water erosion.
- 12/12/14 An e-mail and a certified letter were sent to Mr. Hout (Hout Fencing) (e-mail copied to Mr. Veal) outlining the status of the NOV compliance items and abatement work. The operator was given until **December 19, 2014** to submit the documentation for completion of the compliance action/abatement work for Compliance Item 4.B and the submittal of the LMO Application Form and increased reclamation performance bond to initiate the completion of the compliance action/abatement work for Compliance Item 4.A. Stated Compliance Item 4.C had been satisfied. Ms. Hout (Hout Fencing) responded with an e-mail indicating they had submitted a bond increase rider in June 2014. A PDF copy of a Water Quality Division (WQD) bond rider was attached to the e-mail. No additional information was included in the e-mail. Ms. Deanna Hill, LQD Bonding

Analyst sent internal e-mail stating she researched the files and log books and found no evidence that the bond rider was received by the LQD.

- 12/15/14 Richard Vincent called and left a message with Ms. Lara-Kay Asbury, WQD Bonding Analyst to determine if they received the bond increase rider.
- 12/17/14 An e-mail was sent to Mr. and Ms. Hout stating the findings of the LQD Bond Analyst search and the fact the bond rider submitted was a WQD form. The e-mail contained a list of the information required that had not been received by the LQD and a PDF copy of the LQD's edits to the draft LMO submitted 6/5/14.
- 12/18/14 E-mails between Richard Vincent, LQD and Ms. Asbury, WQD Bonding Analyst resulted in Ms. Asbury stating she researched the WQD files and found no evidence that the bond rider was received by the WQD. The LQD then sent Mr. and Ms. Hout (copied to Mr. Veal) that the bond increase rider had not been received by either the WQD or the LQD. The e-mail also outlined all the information that was needed by the LQD. The **December 19, 2014** deadline for submitting the LMO Application Form and bond increase was restated.
- 12/30/14 Initiated the termination of NOV 5027-12 and filing of the 2014 Inspection Report, as well as the accompanying photos, maps, and NOV history paperwork.
- 1/8/15 Recommended the termination of Nov 5027-12 and revision/carrying forward of NOV 5027-12 Settlement Agreement Compliance Issues 4.A and 4.B in a new NOV.