# 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


**CERTIFIED MAIL, RETURN RECEIPT REQUESTED #7015 0920 0001 5194 0060**

August 12, 2015

Mr. Bruce Lawson
Black Hills Bentonite, LLC
P.O. Box 9
Mills, WY 82644

**RE: Notice of Violation, Docket No. 5602-15, Permit 281C, Black Hills Bentonite, LLC**

Dear Mr. Lawson:

Enclosed you will find a Notice of Violation issued under the provisions of W.S. §35-11-701(c)(i). The Notice of Violation is based on an inspection conducted by Sarah Naylor of the LQD District II staff on July 17, 2015. The violation is for failure to protect topsoil and failure to follow the approved mine plan.

The LQD is attempting to resolve this issue without further enforcement action, and requires that you contact Mr. John Erickson, LQD District II Supervisor, within fifteen (15) days of receipt of this letter to schedule a meeting to resolve this enforcement action.

Respectfully,

Todd Parfitt
Director

Kyle Wendtland
Administrator, Land Quality Division

Enclosures: Notice of Violation Docket No. 5602-15

cc: John Erickson, Supervisor, LQD District II w/enclosure
Permit 281C NOV File

**DEPARTMENT OF ENVIRONMENTAL QUALITY**
**STATE OF WYOMING**

# NOTICE OF VIOLATION

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| IN THE MATTER OF THE NOTICE OF VIOLATION ISSUED TO | ) | |
| Black Hills Bentonite, LLC<br>P.O. Box 9<br>Mills, WY 82644<br>RE: Permit 281C, Ten Sleep Mine | ) | DOCKET NO. 5602-15 |

## NOTICE

NOTICE IS HEREBY GIVEN THAT:

Notice of Violation is being sent to you pursuant to W.S. §35-1 1-701(c)(i) which requires that a written notice shall be issued in the case of failure to correct or remedy an alleged violation.

On July 17, 2015 an annual inspection of the Ten Sleep Area Mining Operation (Permit 281C), was conducted by Sarah Naylor, with District II of the Land Quality Division of the Wyoming Department of Environmental Quality. Site inspection results were summarized in a report dated August 4, 2015. The inspection included a tour of all recently opened mining disturbances. The Ten Sleep area mining operation is located within Townships 46N through 48N and Ranges 88W through 90W, in Washakie County, Wyoming.

Wyoming Statute §35-11-415 (b)(ii) requires that all mining and reclamation activities within the permit area conform with the approved plan. Approved mine plans for the permit outline the protection of topsoil by: committing to the construction of a topsoil buffer between native lands and mine disturbances; stripping topsoil to the recommended salvage depths presented in the permit; specifying topsoil pile construction techniques and location; and conforming to standardized road construction practices. The inspection indicated that these aspects of the approved plan had not been followed throughout the permit area.

The Land Quality Division (LQD) Non-Coal Rules and Regulations Chapter 3, Section 2(c)(i)(A) states "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." During the inspection inadequate topsoil salvage was noted within overburden stockpile storage areas, along access roads, and adjacent to excavation areas in recently opened pits. Topsoil was seen lost into pits via sloughing over high-walls and low-walls. Additionally, poor topsoil salvage practices have resulted in topsoil being compacted by heavy equipment on narrow, poorly constructed roads and stockpile storage areas.

The LQD Non-Coal Rules and Regulations Chapter 3, Section 2(c)(i)(A) states "The topsoil may be mixed with 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." This inspection revealed a failure to protect topsoil from overburden/spoil contamination and poor topsoil pile construction and location. Specifically, some salvaged topsoil was not properly stockpiled resulting in material being lost down a drainage side-slope. In addition, inadequate topsoil buffer zones surrounding excavated pits and newly constructed roads resulted in placement of overburden/bentonitic material onto native ground.

The LQD Non-Coal Rules and Regulations Chapter 3, Section 2(c)(iv)(C) states "All topsoil shall be removed from areas to be used for piling spoil material prior to the beginning of piling this material." Inadequate topsoil stripping under overburden stockpiles was noted during this inspection specifically within Sections 1 & 2 of T47N, R90W; Sections 29 &32 of T47N, R88W; and Section 36 of T47N, R89W.

W.S. § 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 there under 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.

**DATED THIS** 12 **day of** August**, 2015.**

Kyle Wendtland
Land Quality Administrator
Department of Environmental Quality

Todd Parfitt
Director
Department of Environmental Quality

PLEASE DIRECT ALL INQUIRIES regarding this Notice of Violation to John Erickson, Land Quality District 2 Supervisor, 510 Meadowview Dr., Lander, WY 82520, phone (307) 332-3047.