

**BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL**

STATE OF WYOMING

IN THE MATTER OF THE
NOTICE OF VIOLATION
ISSUED TO:

MONICA WILLIAMS, ENVIRONMENTAL
COORDINATOR
THUNDER BASIN COAL CO. LLC, COAL
CREEK MINE
195 HOADLEY ROAD
P.O. BOX 406
WRIGHT WY 82732

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

On January 29, 2007, Mr. Tim Link of the Wyoming Department of Environmental Quality (WDEQ), Solid & Hazardous Waste Division (SHWD), conducted an inspection of Thunder Basin Coal Company, LLC, Coal Creek Mine, for the purpose of evaluating compliance with the Wyoming Hazardous Waste Rules and Regulations (HWRR). On March 26, 2007, the department received copies of hazardous waste manifests indicating that 6,960 pounds or 97 drums of hazardous waste had been shipped offsite on March 5, 2007.

The results of the January 29, 2007, inspection and the shipment of hazardous waste revealed the following violations of the HWRR:

1. The hazardous waste generator did not make a HW determination by testing or by applying knowledge of the process generating the waste. [HWRR, Chapter 8, Section 1(b)(i)(C)(I) and (II)] The wastes were generated in November, 2006 as a result of equipment fabrication, and a hazardous waste determination was not made until after the 01/29/07, department inspection. There was also, no information provided to WDEQ indicating a waste determination was in progress at the time of the inspection. Therefore, Thunder Basin Coal Company, LLC, Coal Creek Mine, was in violation of HWRR, Chapter 8, Section 1(b)(i)(C)(I) and (II), for not determining if a waste material is a hazardous waste or beginning such a determination at the time the waste was generated.
2. Containers of 110 gallons or less have not been marked with the required Hazardous Waste label(s). "HAZARDOUS WASTE-Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the US Environmental Protection Agency Generator name(s) and address(es) Manifest Document Number". Regulation: [HWRR, Chapter 8, Section 3(c)(ii), 8 3(e)(i)(C)] None of the drums containing hazardous waste that were being stored in the drum storage area at the time of the inspection, had the required hazardous waste labels. Therefore, the generator did not clearly mark all containers with the words "HAZARDOUS WASTE".
3. Containers used to temporarily store hazardous waste waste before transport are not clearly dated. [HWRR, Chapter 8, Section 3(e)(i)(B)] None of the drums containing hazardous waste that were being stored in the drum storage area at the time of the inspection, were clearly dated. Therefore, the generator did not mark hazardous waste containers with the date to determine when waste accumulation began.
4. The generator does not adequately inspect containers for leakage and corrosion on a weekly basis. Regulation: [HWRR, Chapter 8, Section 3(e)(iv)(B), 11 10(e)] There were no records indicating that weekly inspections for leakage and corrosion had been performed on the hazardous waste drums being stored in the drum storage area.
5. The facility was unable to provide adequate evidence that the used oil generator took the required steps to stop and contain a used oil release observed during the inspection. The facility was unable to provide adequate evidence that the used oil generator took the required steps to clean up and properly



manage the released used oil and other materials. [HWRR, Chapter 12, Section 11(c)(iv)] There was used oil and petroleum-contaminated soils within the bermed and diked used oil storage area that had not been addressed.

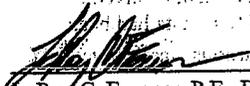
6. The generator is not using the most current and up to date manifest forms. [HWRR, Chapter 8, Section 2(a)(i)] The new uniform manifest copies were not being used to ship the hazardous waste.

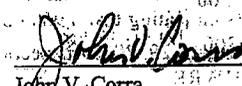
7. The generator's manifest did not include emergency information (special handling instruction, telephone number). [HWRR, Chapter 8, Section 2(a)(i)] There was no emergency information found on manifest #000257724FLE.

ANY PERSON who violates any provision of the Environmental Quality Act, or any rules, standard, permit, license, or variance adopted thereunder is liable to a penalty of ten thousand dollars (\$10,000) 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; and

THIS NOTICE OF VIOLATION is being sent to you pursuant to Wyoming Statute 35-11-701(c) which requires that in any case of the failure to correct or remedy an alleged violation the Director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.

Signed this 3rd day of April, 2007.


LeRoy C. Feusner, P.E., BCEE
Administrator
Solid & Hazardous Waste Division


John V. Corra
Director
Dept. of Environmental Quality