

FILED ^{file}

OCT 04 1982

Terri A. Lorenzon, Adm. Aide
Environmental Quality Council

ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO)
KAYCEE BENTONITE CORPORATION)
P.O. Box 9, MILLS, WY 82644)
MINING PERMIT NO. 248C)

RESPONSE TO
NOTICE OF VIOLATION,
CEASE AND DESIST ORDER
AND REQUEST FOR HEARING

COMES NOW, Kaycee Bentonite Corporation, by and through its attorneys, Hathaway, Speight and Kunz, and responds to a Notice of Violation and Cease and Desist Order, captioned "Department of Environmental Quality, State of Wyoming, Docket No. 1145-82", which was issued on September 20, 1982, and received by Kaycee Bentonite Corporation on September 24, 1982. In response to the allegations contained in the Notice, Kaycee Bentonite Corporation states and alleges as follows:

1. Kaycee Bentonite admits that the Notice and Order was sent pursuant to the authority of W.S. 35-11-701(c)(i).
2. Kaycee Bentonite admits the allegations contained in Paragraph 2.
3. Kaycee Bentonite denies the allegations contained in Paragraph 3.
4. Kaycee Bentonite denies that it has not properly disposed of materials that would prevent adequate re-establishment of vegetation.
5. Kaycee Bentonite denies that the 12" culvert in place was blocked, but admits the remainder of averments in Paragraph 5.
6. Kaycee Bentonite denies that it has not provided adequate through drainage.
7. Kaycee Bentonite denies that it is in violation of the Environmental Quality Act or the Land Quality Rules and Regulations.

request for Docket - 10-27-82

AFFIRMATIVE DEFENSES

1. Kaycee Bentonite alleges that it is a member of the Bentonite Producers of Wyoming and is involved in a rule making proceeding before the Environmental Quality Council in an attempt to clarify issues that are involved in this Notice of Violation, and that the alleged violation may be resolved by the promulgation of rules and regulations.

2. Kaycee Bentonite alleges that the Department of Environmental Quality has not attempted by conference, conciliation and persuasion to eliminate the source of the alleged violation.

3. Kaycee Bentonite alleges that if it used procedures recommended by the Land Quality personnel for reclamation, revegetation and culvert installation, it would be inconsistent with the objectives and purposes of the Environmental Quality Act.

4. As a further and separate defense to this Notice of Violation, Kaycee Bentonite alleges that the Notice of Violation fails to state a claim against it upon which relief can be granted.

REQUEST FOR HEARING

Kaycee Bentonite requests that the Environmental Quality Council schedule a hearing to resolve the issues alleged in the Notice of Violation. Kaycee Bentonite further requests that the Order of the Director and Land Quality Administrator be stayed pending the Environmental Quality Council's final determination.

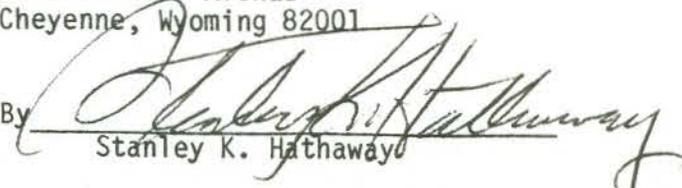
WHEREFORE, Kaycee Bentonite prays:

1. That the Notice of Violation be dismissed;
2. For such other and further relief as may be appropriate at law or in equity, generally or specific, to which Kaycee Bentonite may be justly entitled; and
3. For such further relief as the Environmental Quality Council may deem proper.

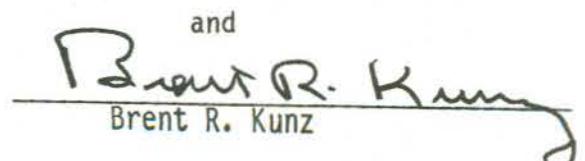
DATED this 4 day of October, 1982.

HATHAWAY, SPEIGHT AND KUNZ
Attorneys for Kaycee Bentonite
One Pioneer Center, Suite 402
2424 Pioneer Avenue
Cheyenne, Wyoming 82001

By


Stanley K. Hathaway

and


Brent R. Kunz

CERTIFICATE OF SERVICE

This is to certify that on this 4 day of October, 1982, true and correct copies of the foregoing RESPONSE TO NOTICE OF VIOLATION AND CEASE AND DESIST ORDER were deposited in the United States mail, postage prepaid and addressed to: ROBERT E. SUNDIN, Director, Department of Environmental Quality, Equality State Bank Building, Cheyenne, Wyoming 82002; WALTER C. ACKERMAN, Administrator, Land Quality Division, Department of Environmental Quality, Equality State Bank Building, Cheyenne, Wyoming 82002; BOB KRUMM, Environmental Compliance Specialist, Land Quality District IV Office, 30 East Grinnel, Sheridan, WY 82080; and WELDON CALDBECK, Attorney General's Office, Capitol Building, Cheyenne, Wyoming 82002.

Brent R. Krumm