

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

FILED
JUL 12 2016

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)

Dave's Asphalt Company)
501 North Smith Road)
Riverton, WY 82501)

DOCKET NUMBER 5529-15

NOTICE OF LACK OF STATE JURISDICTION

PLEASE TAKE NOTICE:

1. That Dave's Asphalt Company is a tribally chartered corporation, wholly owned and operated by Dave Long, an enrolled member of the Northern Arapaho Tribe of the Wind River Reservation, a federally recognized tribe.

2. That the business is located within Indian Country, namely, the Wind River Reservation.

3. That the State of Wyoming lacks authority to regulate in Indian Country under its Clean Water Act delegation from the Environmental Protection Agency (EPA).

4. That the State of Wyoming, through the Attorney General's Office, has previously undertaken, in the Clean Air Act context, to refrain from any attempt to regulate Dave Long or Dave's Asphalt Company pending the Tenth Circuit Court of Appeals' decision in the State's challenge to EPA's determination of the territorial extent of the Wind River Reservation. State of Wyoming vs. EPA, Tenth Circuit Court of Appeals No. 14-9512.

5. That further attempts to assert jurisdiction in this manner may expose the State of

Wyoming and its officers, employees and agents to liability for damages or equitable relief under federal law.

Dated this 7th day of July, 2016.

Dave's Asphalt Company

By:



Berthenia S. Crocker
Attorney for Dave's Asphalt Company

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CERTIFICATE OF SERVICE

The foregoing Notice of Lack of State Jurisdiction was served upon the following by U.S. Mail on July 7, 2016:

Chairman
Wyoming Environmental Quality Council
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Cheyenne, WY 82002

Director
Wyoming Department of Environmental Quality
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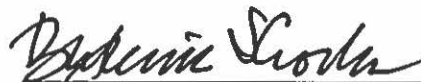
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Craig Alexander
Chief, Indian Resources Section
U.S. Department of Justice
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