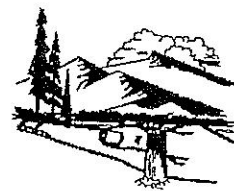




Matthew H. Mead, Governor

Department of Environmental Quality

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



Todd Parfitt, Director

January 10, 2017

Certified #7014 2120 0004 5660 3236
Return Receipt Requested

Mr. Michael Dimick
Hopper Metals
P.O. Box 273
Shoshone, WY 82649

RE: Issuance of Notice of Violation (NOV)

Dear Mr. Dimick:

Enclosed is a Notice of Violation (NOV) issued for violations of the Wyoming Solid Waste Rules and Regulations (SWRR) and the Wyoming Air Quality Standards and Regulations (AQSR).

Due to the seriousness of these violations, the department is issuing this NOV and plans a referral to the Wyoming Attorney General Office (AGO) if a voluntary settlement cannot be reached.

If you have any questions regarding this letter, the attached NOV, and/or would like to schedule a meeting to discuss voluntary settlement, please contact Mr. Charles Plymale in our Lander office at (307)335-6951, or Bob Breuer in our Casper office at (307) 473-3454.

Sincerely,

Luke Esch
Administrator
Solid and Hazardous Waste Division

Enclosure: NOV

- C: Bob Breuer, I&C Program Manager, WDEQ/SHWD Casper Office, File #75.007
- Charlie Plymale, I&C, WDEQ/SHWD Lander Office, File #75.007
- Lars Lone, AQD Compliance Program Manager, Cheyenne

200 West 17th Street · Cheyenne, WY 82002 · <http://deq.wyoming.gov> · Fax (307)635-1784

ADMIN/OUTREACH (307) 777-7937	ABANDONED MINES (307) 777-6145	AIR QUALITY (307) 777-7391	INDUSTRIAL SITING (307) 777-7369	LAND QUALITY (307) 777-7756	SOLID & HAZ. WASTE (307) 777-7752	WATER QUALITY (307) 777-7781
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DEQ RFP 2 - 009

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF
VIOLATION ISSUED TO:

Michael Dimick
483 Bonneville Road
Shoshoni, WY 82649

Hopper Metals
483 Bonneville Road
Shoshoni, WY 82649

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) DOCKET NUMBER 5716-16
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NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Wyoming Department of Environmental Quality (the Department), Solid and Hazardous Waste Division (SHWD), and the Air Quality Division (AQD), has found Michael Dimick and Hopper Metals to be in violation of the Wyoming Solid Waste Rules and Regulations (SWRR), Chapter 1, Sections 1(f), 1(h), and the Wyoming Air Quality Standards and Regulations (AQSR), Chapter 10, Sections 2(c), 2(e), promulgated pursuant to the Division's authority under the Wyoming Environmental Quality Act, W.S. 35-11-501, W.S. 35-11-201, for operating an open dump and burning municipal solid waste at 483 Bonneville Road, Shoshoni, Wyoming.
2. W.S. 35-11-501 provides that "[t]he administrator of the solid and hazardous waste management division shall enforce and administer . . . rules, regulations and standards promulgated under this article."
3. W.S. 35-11-201 provides that "No person shall cause, threaten or allow the discharge or emission of any air contaminant in any form so as to cause pollution which violates rules, regulations and standards adopted by the council."
4. Chapter 1, Section 1(h)(i) of the SWRR prohibits "[o]pen dumping."
5. Chapter 1, Section 1(e)(i) of the SWRR defines an "[o]pen dump" as "an uncontrolled solid waste management facility at which solid wastes are placed on the land in such a manner that they present a real or potential hazard to public health and the environment." The definition specifically includes "any solid waste management facility subject to the permitting requirements of these rules and regulations which does not have a current, valid permit."
6. Chapter 1, Section 1(e)(i) of the SWRR defines a "[s]olid waste management facility" as "any facility for the transfer, treatment, processing, storage, or disposal of solid waste." Chapter 1, Section 1(f)(i) of the SWRR provides that "[a] permit . . . is required for the location, construction, operation, or closure of any new or existing solid waste management facility."
7. Chapter 1, Section 1(e)(i) of the SWRR defines "solid waste" as "garbage, and other discarded materials . . ." When scrap tires are not destined for recycling, they are solid waste.
8. Chapter 1, Section 1(h)(v) prohibits the open burning of waste.
9. Chapter 10, Section 2(a)(ii) of the AQSR defines "[o]pen burning" to mean a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.

10. Chapter 10, Section 2(a)(v) of the AQSR defines “[p]rohibited materials” as substances including, but not limited to: natural or synthetic rubber products, including tires; waste petroleum products, such as oil or used oil filters; insulated wire; plastic products, including polyvinyl chloride (“PVC”) pipe, tubing and connectors; tar, asphalt, asphalt shingles, or tar paper; railroad ties; wood, wood waste, or lumber that is painted or chemically treated; explosives or ammunition; batteries; hazardous waste products; asbestos or asbestos containing materials; or materials which cause dense smoke discharges, excluding refuse and flaring associated with oil and gas well testing, completions and well workovers.
11. Chapter 10, Section 2(vi) of the AQSR defines “[r]efuse” as any waste material, including garbage that is generated at dwelling units, farmsteads, or ranch headquarters.
12. Chapter 10, Section 2(c) of the AQSR prohibits the open burning of prohibited materials.
13. Chapter 10, Section 2(e) of the AQSR restricts the burning of refuse.
14. Michael Dimick is the owner and operator of Hopper Metals, located at 483 Bonneville Road, in Shoshoni, Wyoming.
15. In April 2016, SHWD personnel and United States Environmental Protection Agency (EPA) personnel conducted a joint inspection of Hopper Metals. The Department and the EPA conducted this inspection because of illegal disposal activities connected to Hopper Metals and Michael Dimick. After that inspection, the SHWD notified Dimick that he could not burn municipal solid waste.
16. On November 2, 2016, the Department received a complaint that Hopper Metals was dumping municipal solid waste into a large tank and burning it at 483 Bonneville Road.
17. On November 3, 2016, SHWD inspector Charles Plymale conducted an inspection at Hopper Metals. Plymale evaluated Hopper Metals’ compliance with the SWRR.
18. The November 3rd inspection revealed that Hopper Metals was collecting municipal solid waste without a permit, dumping it into a large tank, and burning it to reduce its weight.
19. The November 3rd inspection also revealed that Hopper Metals had collected over 1,000 scrap tires and had either baled them or was baling them.
20. On November 14th, 2016, Plymale conducted a follow-up inspection of Hopper Metals with Dimick.
21. The November 14th inspection revealed that Hopper Metals was continuing to collect and burn municipal solid waste, and that Hopper Metals was continuing to collect and bale scrap tires.
22. The inspections revealed the following violations of the Wyoming SWRR and Wyoming AQSR:

Count 1: SWRR, Chapter 1, Section 1(f), and W.S. 35-11-102(a) require persons to obtain a permit before constructing or operating a site that receives solid wastes. Hopper Metals does not have a permit or one-time authorization to dispose of or manage solid waste at the location. Hopper Metal’s failure to obtain a permit or one-time authorization violates the Act and the SWRR.

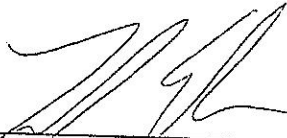
Count 2: SWRR, Chapter 1, Section 1(h)(i) prohibits open dumping of solid wastes. A person who collects solid waste without a permit is operating an open dump under SWRR, Chapter 1, Section 1(e). Hopper Metals is collecting solid waste without a permit. Therefore, Hopper Metals is operating an open dump, violating the SWRR.


Count 3: SWRR, Chapter 1, Section 1(h)(v) open burning of municipal solid wastes. Hopper Metals is burning municipal solid wastes in a large tank. Therefore, Hopper Metals is openly burning municipal solid wastes, violating the SWRR.

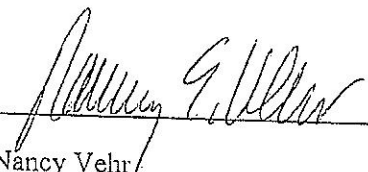
Count 4: AQSR, Chapter 10, Section 2(c) Unlawful open burning. No person shall burn prohibited materials using an open burning method, except as maybe authorized by permit. Hopper Metals is burning waste which contains prohibited materials without a permit. Therefore, Hopper Metals is openly burning prohibited materials, violating the AQSR.

Count 5: AQSR, Chapter 10, Section 2(e) Restrictions of Refuse burning. No person shall dispose of refuse by open burning, or cause, suffer, allow or permit open burning of refuse, except open burning of refuse associated with dwelling units, farmsteads, or ranch headquarters. Hopper Metals is burning municipal solid waste. Therefore, Hopper Metals is openly burning refuse from residential garbage collection, violating the AQSR.

23. 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
24. 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.



Luke Esch
Administrator
Solid & Hazardous Waste Division

Todd Parfitt
Director
Dept. of Environmental Quality

Nancy Vehr
Administrator
Air Quality Division