



# 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

May 12, 2017

**CERTIFIED MAIL, RETURN RECEIPT REQUESTED # 7010 2780 0000 4521 5543**

Mr. Brian (Pab) Good  
Good Bentonite Company  
3796 Lane 32½  
Greybull, WY 82426

**RE: Permit PT-533, Notice of Violation, Docket No. 5748-17**

Dear Mr. Good:

Enclosed you will find a Notice of Violation and Order issued under the provisions of the Wyoming Environmental Quality Act, W.S. §35-11-415(a), W.S. §35-11-417(a) and (c), and W.S. §35-11-701. The Notice of Violation and Order is based on your noncompliance with the Wyoming Department of Environmental Quality (WDEQ) Director's Bond Letter for Permit PT-533 dated March 15, 2017.

The WDEQ – Land Quality Division considers the lack of adequate reclamation bonding a serious issue, especially given the amount of time this situation has existed. This issue has been outstanding since the March 19, 2013 settlement agreement in which the Good Bentonite Company agreed to provide the bond amount required at that time. The issue has remained outstanding even after the new bond amount was set. Please contact me at 307-777-7062 to arrange your submittal of the required bond.

Respectfully,

Alan Edwards  
Deputy Director, WDEQ and Acting Administrator, WDEQ Land Quality Division

Enclosure: Notice of Violation and Order

Cc: Andrew Kuhlmann, Senior Assistant Attorney General  
WDEQ/LQD District 2

**Exhibit DEQ 1**

DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

NOTICE OF VIOLATION and ORDER

IN THE MATTER OF THE NOTICE OF )  
VIOLATION ISSUED TO )  
Brian (Pab) Good )  
Good Bentonite Company, LLC ) DOCKET NO. 5748-17  
3796 Lane 32½ )  
Greybull, Wyoming 82426 )  
RE: Failure to Post the Required )  
Reclamation Performance Bond )  
for Permit PT-533 )

NOTICE

NOTICE IS HEREBY GIVEN THAT:

1. Notice of Violation (NOV) is being sent to you, Mr. Brian Good and Good Bentonite Company, LCC, the permittee and operator of Permit PT-533, pursuant to W.S. §35-11-701(c)(i) which requires that a written notice shall be issued in the case of failure to correct or remedy an alleged violation.
2. The Permit PT-533 encompasses 160 acres and is located in the S½SE and S½NESE of Section 19, Township 54N, Range 92W and NWNE and E½SWNE of Section 30, Township 54N, Range 92W. This mine operation is currently inactive.
3. Good Bentonite Company (FKA Good Mining Company) has maintained a reclamation bond for Permit PT-533 of \$13,000.00 that remains in place at this time. This amount is associated with the required retainage under W.S. § 35-11-417 (e) for the reclamation liability associated with earlier disturbance and inherited through the permit transfer to Good Bentonite Company; reference Item 6(b) of the Settlement Agreement for Environmental Quality Council (EQC) NOV Docket Number 11-4201A. The \$13,000.00 bond supplied by Good Bentonite Company replaced the reclamation bond held by Black Hills Bentonite as part of the permit transfer and does not cover the reclamation liability for the disturbance caused by Good Bentonite Company.
4. On March 19, 2013 Good Bentonite Company entered into a Settlement Agreement to bring final resolution to Environmental Quality Council (EQC) NOV Docket Number 11-4201A. Item 6(c) of the Settlement Agreement specified the payment of an additional Reclamation Performance Bond in the amount of forty thousand dollars (\$40,000.00) in a form acceptable to the Land Quality Division (LQD) to cover the estimated cost to the State to reclaim the existing mine related disturbance, due 30 days from the date of the settlement agreement. To date, the Good Bentonite Company has not submitted the required bond.
5. Since finalization of the Settlement Agreement, DEQ has met and corresponded with the Good Bentonite Company in an attempt to work with and accommodate the needs of their bentonite mining operations as well as attempting to collect the required bond amount.
6. The Annual Report for Permit PT-533 was received on July 28, 2016. The Annual Report did not contain a bond estimate.
7. Through a letter dated January 24, 2017, the Wyoming Department of Environmental Quality – Land Quality Division (WDEQ/LQD) sent you a copy of the Inspection Report documenting the results of the annual inspection. The report also contained a bond estimate of \$43,600.00 based on the results of the inspection and information contained in the Annual Report.
8. The Cover Letter to the Annual Report stated that if there were “any questions about the contents or find something in error to please respond within 30 days of the date of this letter.” No comments from Good Bentonite Company were received by the Department of Environmental Quality directly related to the bond for Permit PT-533.
9. A Director’s Bond Letter was sent on March 15, 2017 per W.S. § 35-11-411(d). The Director’s Bond Letter provided a \$9,400.00 reduction in the previously-established total bond amount due to a decrease in fuel prices. The Director’s Bond Letter set the new total required bond amount for Permit PT-533 at \$43,600.00. As stated in paragraph 3 above, Good Bentonite Company currently maintains \$13,000.00 in bonding with the Department towards the total required amount. The

remaining \$30,600.00 bond shortfall to cover all of the disturbance related to Permit PT-533 was due on or before April 15, 2017 (30 days from the date of the Director's Bond Letter). To date, the Department has not received any additional bonding from Good Bentonite Company to meet the new required bond amount and there has been no communication with regard to its submission. Failure to provide an adequate Reclamation Performance Bond is a violation of W.S. § 35-11-415(a) and W.S. § 35-11-417(a).

10. Under W.S. 35-11-415(a), "Every operator to whom a permit or license is issued shall comply with all requirements of this act, the rules and regulations promulgated hereunder, and reclamation plans and other terms and conditions of any permit or license."
11. A Reclamation Performance Bond is required under W.S. § 35-11-417(a) states "to assure that the operator shall perform all requirements of this act and comply with all rules and regulations of the board made in accordance with the provisions of this act." The amount of the bond is established under the provisions outlined in W.S. § 35-11-417(c).
12. 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 the penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming.
13. This Notice is being sent to you pursuant to W.S. § 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 written notice to be issued and served upon the person alleged to be responsible.

**ORDER**

**WHEREFORE IT IS HEREBY ORDERED THAT:**

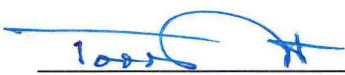
1. You are hereby directed to submit the balance of the required Reclamation Performance Bond in the amount of \$30,600.00 within 15 days of receipt of this Notice.

THIS ORDER is final unless, not later than ten (10) days after the date this Notice is received, it is appealed by filing a written petition for a hearing before the Environmental Quality Council. If a hearing is requested, the petition shall be mailed to Chairman, Wyoming Environmental Quality Council, Room 1714 Herschler Building, 1<sup>st</sup> Floor West, Cheyenne, WY, 82002. A copy of the petition shall be mailed to the Director, Wyoming Department of Environmental Quality, 200 West 17<sup>th</sup> Street, 4<sup>th</sup> Floor, Cheyenne, WY, 82002. Both petitions must be sent by certified mail, return receipt requested.

NOTHING IN THIS ORDER shall be interpreted to in any way limit or contravene any other remedy available under Environmental Quality Act, nor shall this Order be interpreted as being a condition precedent to any other enforcement action

DATED THIS 12<sup>th</sup> day of May, 2017.

  
for Alan Edwards  
Administrator, Land Quality Division  
Department of Environmental Quality

  
Todd Parfitt  
Director  
Department of Environmental Quality

**PLEASE DIRECT ALL INQUIRIES** regarding this Notice of Violation to Alan Edwards, Administrator, WDEQ/LQD, 200 W. 17<sup>th</sup> St., Ste. 400, Cheyenne, WY 82002 Telephone (307) 777-7062.