

**FILED**

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING**

OCT 04 2002

IN THE MATTER OF )  
ANTELOPE COAL COMPANY, )  
PERMIT NO. 525-T6, )  
NOTICE OF VIOLATION NO. 100550 )

Terri A. Lorenzon, Director  
Environmental Quality Council  
Docket No. 02-4600

**PETITION FOR REVIEW**

Antelope Coal Company ("ACC") petitions the Wyoming Environmental Quality Council ("EQC") to review a decision of the Director ("Director") of the Department of Environmental Quality ("DEQ") upholding the issuance by the Land Quality Division ("LQD") of Notice of Violation No. 100550 to ACC for affecting an area within 100 feet of the right-of-way of a public road without specific authorization from the Administrator. Pursuant to Chapter I, Section 3(c), Department of Environmental Quality Rules of Practice and Procedure, ACC sets forth the following in support of its petition for review:

1. The name and address of the person making the request is Antelope Coal Company, Caller Box 3008, Gillette, WY 82717. Legal counsel for ACC is Edward W. Harris, Holland & Hart, 2515 Warren Avenue, Suite 415, Cheyenne, WY 82001. ACC requests a hearing before the Environmental Quality Council in this matter.

2. Chapter 12, Section 1(a)(v)(D) of LQD's Coal Rules and Regulations states that "coal mining operations are prohibited or limited ... within 100 feet ... of the outside right-of-way line of any public road ... however, the Administrator may specifically authorize operations ... within 100 feet of a public road." On June 4, 2002, LQD issued Notice of Violation No. 100550 to ACC, asserting that ACC had violated this regulatory provision.

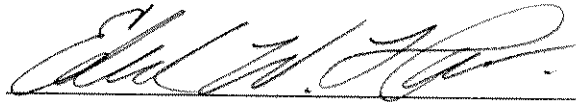
3. ACC did construct a portion of the Horse Creek Reservoir Discharge Pipeline within 100 feet of the right-of-way of County Road No. 37. However, ACC contends that the Administrator specifically authorized this construction, and that ACC complied with and satisfied all other regulatory requirements relating to such construction.

4. On this basis, ACC sought an informal conference before the Director. On September 20, 2002, the Director issued his Director's Findings of Fact, Conclusions of

Law and Decision, upholding LQD's action in issuing Notice of Violation No. 100550.  
A copy of the Director's decision is attached to this Petition.

5. ACC maintains that the Director's decision is contrary to the law, and that ACC did not violate the applicable regulatory requirements relating to the Horse Creek Reservoir Discharge Pipeline. ACC therefore asks the Environmental Quality Council to review the Director's decision, reverse it, and vacate Notice of Violation No. 100550.

DATED this 4<sup>th</sup> day of October, 2002.



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(307) 778-4200

ATTORNEYS FOR  
ANTELOPE COAL COMPANY

#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this 4<sup>th</sup> day of October, 2002, in accordance with the requirements of Chapter I, Section 3(b), this PETITION FOR REVIEW was served as follows:

Two copies were directed to and served upon the Chairman of the Environmental Quality Council, Herschler Building, Cheyenne, WY 82002, by registered mail, return receipt requested.

Two copies were directed to and served upon Dennis Hemmer, Director of the Department of Environmental Quality, Herschler Building, Cheyenne, WY 82002, by registered mail, return receipt requested.

One copy was also served by hand delivery to each of the following:

Environmental Quality Council  
Herschler Building, 1<sup>st</sup> Floor West  
Cheyenne, WY 82002

John Burbridge  
Assistant Attorney General, Air  
Quality Division  
Herschler Building  
Cheyenne, WY 82002

