

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

IN THE MATTER OF THE NOTICE OF )  
VIOLATION ISSUED TO )  
CUNDY ASPHALT PAVING )  
CONSTRUCTION, INC ) DOCKET NUMBER 02-4201  
ATTN: MR. ERNIE SKRETTEBERG )  
P.O. BOX 2469 )  
GILLETTE, WYOMING 82717 )  
RE: PERMIT 546(s) )

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**ORDER**

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Having appeared before the Environmental Quality Council and after fully considering the evidence herein and the stipulated findings of fact, conclusions of law and consent agreement entered into by the parties herein, this council finds as follows:

1. Cundy Asphalt Paving Construction, Inc. is a small mine operation with facilities located north of Buffalo and near the airport in parts of Sections 9, 15, 16, 17 and 22 of Township 51 North, Range 82, in Johnson County, Wyoming, also known as the "Irvine Pit."
2. A complaint inspection alleges that Cundy conducted mining operations outside of the hours of 7:00 a.m. and 5:00 p.m. as set forth in its permit, number 546(s).
3. The DEQ, pursuant to W.S. § 35-11-104, is a department in the executive branch of the state government of Wyoming and is principally situated in Cheyenne, Wyoming.  
  
DEQ/LQD is the agency vested by statute W.S. § 35-11-110(a) with the responsibility for administering the environmental laws of the State of Wyoming and for administering all provisions of the Wyoming Land Quality Rules and Regulations.

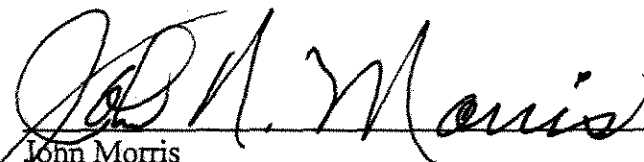
4. Pursuant to W.S. 35-11-901(a), any person who violates any provision of the Environmental Quality Act, or any order, rule, standard, permit, license, or variance adopted thereunder, is subject to a penalty not to exceed ten thousand dollars (\$10,000) for each violation for each day during which the violation continues. 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.
5. W.S. § 35-11-901(a)(ii) authorizes stipulated settlement, including payment of a penalty, in lieu of litigation.

THEREFORE IT IS HEREBY ORDERED THAT:

1. Cundy Asphalt Paving Construction, Inc. will limit its hours of operation to those hours between 7:00 a.m. and 5:00 p.m. through the end of scheduled mining during 2004 at the Irvine Pit.
2. Cundy Asphalt Paving Construction, Inc's. reclamation at the Irvine Pit shall be completed by the end of 2007 as set forth in the September 10, 2003 approved Reclamation Site Plan on Sheet L-3; provided, however, that if the permit is amended to include any additional adjoining land, the reclamation shall proceed as set forth in the amended permit.

ORDERED THIS <sup>13<sup>th</sup></sup> ~~24<sup>th</sup>~~ DAY OF July August, 2004.

WYOMING ENVIRONMENTAL QUALITY COUNCIL

  
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John Morris  
(Hearing Examiner)