

COPY

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

FILED

FEB 29 2008

IN THE MATTER OF A NOTICE OF VIOLATION )  
ISSUED TO LANDRICA DEVELOPMENT )  
COMPANY, Kfx MINE, P.O. BOX 1777 )  
GILLETTE, WY 82717-1777, PERMIT NO. )  
486-T-5, NO. 100516, DOCKET NO. 3928-06 )

Docket No. 06-4806

Terri A. Lorenzon, Director  
Environmental Quality Council

DEPARTMENT OF ENVIRONMENTAL QUALITY/LAND  
QUALITY DIVISION'S PRE-HEARING MEMORANDUM

The Department of Environmental Quality (DEQ)/Land Quality Division (LQD) by and through its attorney, John S. Burbridge, Senior Assistant Attorney General, hereby submits its Pre-Hearing Memorandum and states to the Environmental Quality Council (EQC) the following:

SUMMATION OF THE FACTS

On September 1, 2006 the DEQ/LQD issued Notice of Violation # 100516 (NOV) to Landrica Development Company, Kfx Mine (Landrica) for failure to follow its approved mine plan. The NOV was issued for dumping liquids into an un-permitted treatment site. Landrica requested an informal conference before the Director, held on November 6, 2006. The Director's Findings of Fact, Conclusions of Law and Order was issued on December 11, 2006. The Order reduced a recommended fine of \$35,000.00 to \$25,000.00 immediately with the potential for the fine to be further reduced by \$10,000.00 to a total of \$15,000.00 upon a showing by Landrica that remedial action has occurred. Landrica appealed the Director's decision on December 22, 2006.

## LEGAL ISSUE

1. Did Landrica fail to comply with WYO. STAT. ANN. § 35-11-415(a) and (b)(ii)?
2. Was the civil penalty assessed by the DEQ consistent with LQD Rule and Regulation, Chapter 16, Section 3?

## WITNESSES

### WILL CALL:

John Corra  
Director, Department of Environmental Quality  
122 West 25<sup>th</sup> Street  
Cheyenne, Wyoming 82002  
307-777-7937

Mr. Corra is expected to testify regarding his knowledge and review of the Landrica NOV.

Richard Chancellor  
Administrator, Abandoned Mine Lands Division  
122 West 25<sup>th</sup> Street  
Cheyenne, Wyoming 82002  
307-777-6145

Mr. Chancellor is expected to testify regarding his knowledge of Landrica's NOV.

Mark Rogaczewski  
Supervisor, LQD District III  
1866 South Sheridan Avenue  
Sheridan, Wyoming 82801  
307-673-9337

Mr. Rogaczewski is expected to testify regarding his site inspections of Landrica's

mine, issuance of the NOV and any other knowledge he has regarding Landrica's mining permit.

**MAY CALL:**

Mark Taylor  
1866 South Sheridan Avenue  
Sheridan, Wyoming 82801  
307-673-9337

Mr. Taylor may be called to testify regarding his knowledge of Landrica's soil testing completed pursuant to the NOV and Decision of the Director.

The Division may call any witness listed by the objectors in the above-captioned matter. In addition, the Division may call any witness needed for rebuttal testimony.

**EXHIBITS**

State's Exhibit 1: August 2006 monthly inspection report

State's Exhibit 2: September 1, 2006 letter to Bozic with attached NOV 100516

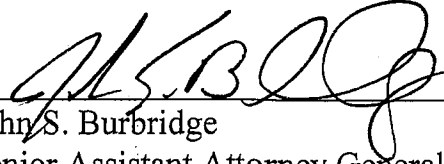
State's Exhibit 3: October 17, 2006 letter to Bozic with attached modification of NOV 100516.

States' Exhibit 4: October 25, 2006 letter to Bozic from Corra

State's Exhibit 5: December 11, 2006, Director's Finding of Fact, Conclusions of Law and Order

State's Exhibit 6: Kfx Mine permit Submitted 1-3-97, Revised 8-05

DATED this 29<sup>th</sup> day of February, 2008.

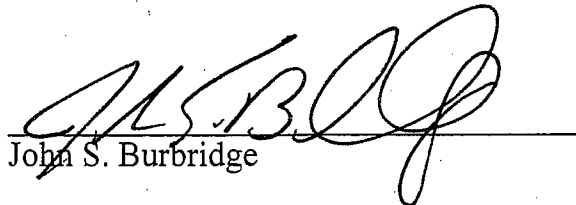


John S. Burbridge  
Senior Assistant Attorney General  
123 Capitol Building  
Cheyenne, Wyoming 82001  
307-777-7823

### CERTIFICATE OF SERVICE

I, John S. Burbridge, certify that on this 29<sup>th</sup> day of February, 2008 the foregoing  
PRE-HEARING MEMORANDUM was served by United States Mail, postage prepaid,  
as follows:

Steven F. Freudenthal  
Freudenthal & Bonds, PC  
123 East 17<sup>th</sup> Street  
P.O. Box 387  
Cheyenne, Wyoming 82003-0837



John S. Burbridge