

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

DEC 30 2011

Jim Ruby, Executive Secretary  
Environmental Quality Council

IN THE MATTER OF THE APPEAL  
OF THE NOTICE OF VIOLATION AND  
ORDER ISSUED TO  
GOOD MINING COMPANY, LLC

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EQC Docket No. 11-4201A

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**PRE-HEARING STATEMENT**

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The Department of Environmental Quality, Land Quality Division (Division), through the Office of the Attorney General, hereby submits its Pre-Hearing Statement.

**SUMMATION OF THE FACTS**

This case arises out of Petitioner's appeal of Notice of Violation and Order No. 4868-11 (NOV) issued to Good Mining Company, LLC (Good Mining) on July 29, 2011. The NOV alleges Good Mining willfully and knowingly violated the Environmental Quality Act (Act) by commencing a mining operation without a permit. Petitioner timely appealed the issuance of the NOV on August 11, 2011, and requested a hearing to be held on the matter. The only issue in the case is whether Petitioner violated the Act by commencing a mining operation without a permit.

**LEGAL ISSUES**

Whether Good Mining willfully and knowingly violated the Act by commencing a mining operation without a permit?

## WITNESSES

### WILL CALL:

Brian Wood  
Department of Environmental Quality  
Land Quality Division  
Lander Field Office  
510 Meadowview Drive  
Lander, Wyoming 82520  
307-332-3047

Mr. Wood conducted the site investigation that revealed the alleged violations. Mr. Wood is expected to testify regarding what he observed during the July 20, 2011, Site Inspection. In addition, Mr. Wood will testify regarding his experiences with Good Mining in its pursuit of a mining permit prior to the issuance of the NOV.

Mark Moxley  
Department of Environmental Quality  
Land Quality Division  
Lander Field Office  
510 Meadowview Drive  
Lander, Wyoming 82520  
307-332-3047

Mr. Moxley is expected to testify regarding interactions between Good Mining and DEQ when Good Mining was requesting a permit to mine the area which was the subject of the NOV. Mr. Moxley may also testify regarding the requirements of the DEQ Land Quality program.

MAY CALL:

Nancy Nuttbrock  
Department of Environmental Quality  
Land Quality Division, Administrator  
Herschler Building  
122 East 25<sup>th</sup> St.  
Cheyenne, WY 82002  
307-777-7756

Ms. Nuttbrock may testify regarding the importance of the Land Quality Division enforcement program.

The Division may also 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**

DEQ Exhibit 1: March 7, 2011, Letter from Brian Wood to Brian Good regarding Potential Permit Transfer

DEQ Exhibit 2: May 26, 2011, Letter from Brian Wood to Brian Good regarding Permit 533 Transfer

DEQ Exhibit 3: June 13, 2011, Letter from Mark Moxley to Brian Good regarding License to Mine Application under Permit No. 533

DEQ Exhibit 4: DEQ's July 20, 2011, Site Inspection Report, dated July 25, 2011.

DEQ Exhibit 5: NOV No. 4868-11, dated July 29, 2011.

DEQ Exhibit 6: 2009 Image of Permit 533 Area

DEQ Exhibit 7: 2011 Image of Permit 533 Area

DEQ Exhibit 8: August 1, 2011 Photo of Good Mining area taken by Brian Wood

The Division also reserves the right to use exhibits identified by other parties as well as exhibits for rebuttal and impeachment purposes.

DATED this 30<sup>th</sup> day of December, 2011.



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Luke J. Esch # 6-4155  
Senior Assistant Attorney General  
123 Capitol Building  
Cheyenne, Wyoming 82001  
307-777-6946  
Luke.esch@wyo.gov

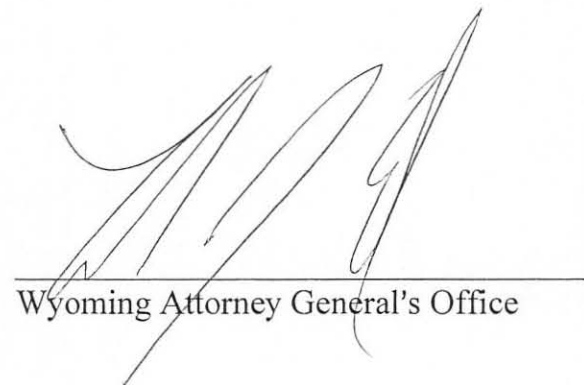
Attorney for Wyoming Department  
Of Environmental Quality

#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of DEQ's Pre-Hearing Statement and proposed exhibits were served by electronic mail and United States mail, postage prepaid, this 30<sup>th</sup> day of December 2011, addressed to the following:

Kim Waring  
Environmental Quality Council  
122 W 25<sup>th</sup> Room 1714  
Herschler Building  
Cheyenne, WY 82002  
[kwaring@wyo.gov](mailto:kwaring@wyo.gov)

Heather A. Jacobson  
Jacobson Law Office, LLC  
1839 Madora Ave.  
Douglas, WY 82633  
[hjlawoffice@wyoming.com](mailto:hjlawoffice@wyoming.com)



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Wyoming Attorney General's Office

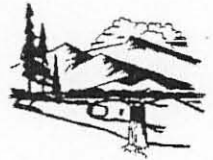
# Exhibit 1

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# Department of Environmental Quality

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



Matthew Mead,  
Governor

John Corra,  
Director

March 7, 2011

Mr. Brian Good  
3796 Lane 32½  
Greybull, WY, 82426

LQD

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RECEIVED

RE: Permit 533 – Potential Permit Transfer

Dear Mr. Good,

Per our conversation last week, it is my understanding that you are pursuing a transfer of Permit 533 from Black Hills Bentonite (BHB). I have enclosed WyDEQ/LQD NonCoal Standard Operating Procedure 1.3 to assist you and BHB through the process. The necessary forms can be downloaded from the WyDEQ/LQD website (<http://deq.state.wy.us/lqd>). In the interim period, I have had the opportunity to review the existing permit. The degree and content of available information concerning baseline conditions is essentially non-existent. The available information principally describes the lands that have been mined out (the approved permit only describes disturbance of 21.6 acres) and not the entire permit area. In addition, the existing Mine and Reclamation Plans only addresses lands within Township 54N, Range 92W, SESE of Section 19.

Considering the above, should you choose to proceed with the permit transfer, a condition will be placed on the transfer stating that no mining will be allowed to take place until a WyDEQ/LQD NonCoal Rules and Regulations Chapter 7 revision is submitted and approved. The Chapter 7 revision will require the collection and analysis of baseline data (includes geology, hydrology, vegetation, soils, and wildlife) as well as a Mine and Reclamation Plan. Considering the scope of this revision, it may be prudent for you to consider hiring a consultant to assist you in preparing the application.

All land within the existing permit area appears to be private surface and mineral with the exception of the Township 54N, Range 92W, E½SWNE of Section 30, which is federal surface and mineral. If the potential proposed future operation will involve any type of disturbance (i.e., access, mining, etc.) of federal surface, their approval of the proposed operation will also be required.

Please call me with any questions concerning the above.

Respectfully,

Brian R. Wood  
District II Hydrologist

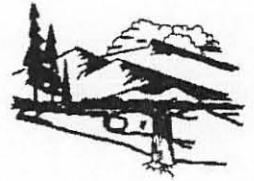
Cc WyDEQ/LQD – Cheyenne, Permit 533 Correspondence File  
Mark Moxley > WyDEQ/LQD – Lander, Permit 533 Correspondence File  
Bruce Lawson, Black Hills Bentonite LLC, P.O. Box 9, Mills, WY, 82644  
Gretchen Hurley, BLM-Cody Field Office, 1002 Blackburn, Cody, WY, 82414  
Brian Wood, Chron

# Exhibit 2



# Department of Environmental Quality

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

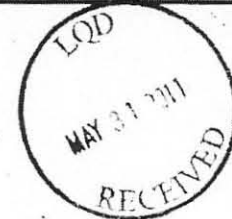


Matthew Mead,  
Governor

John Corra,  
Director

May 26, 2011

Mr. Brian Good  
3796 Lane 32½  
Greybull, WY 82426



**RE: Permit 533 Transfer, TFN 5 1/240**

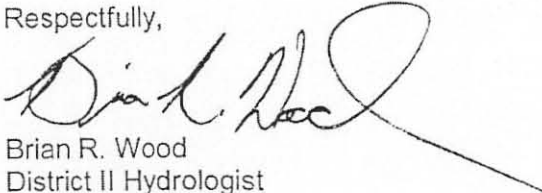
Dear Mr. Good,

I am writing this letter as a formal follow-up to the e-mail I sent to you on May 25, 2011. A review of your Transfer Application was performed by Ms. Deanna Hill, Wyoming Department of Environmental Quality – Land Quality Division (WyDEQ/LQD) Bonding Analyst. Below are her comments on the application materials submitted to date.

1. Form 1t is acceptable (acreage was corrected to reflect the approved Form 1).
2. Form 3 acceptable.
3. The \$25.00 License to Mine fee must be submitted.
4. Updated Appendices A, B and C to Permit 533 must be submitted.
5. An acceptable Reclamation Performance Bond must be submitted in the amount established by the WyDEQ/LQD. Specific to the Reclamation Performance Bond, a portion of the lands within the permit area are Federal Surface, therefore the bond must list the Wyoming Department of Environmental Quality - Land Quality Division and United States of America Secretary of Interior - Bureau of Land Management as beneficiaries.

If you have any questions, please do not hesitate to contact me.

Respectfully,



Brian R. Wood  
District II Hydrologist

Cc WyDEQ/LQD – Cheyenne, TFN 5 1/240 File  
Mark Moxley > WyDEQ/LQD – Lander, TFN 5 1/240 File  
Deanna Hill, WyDEQ/LQD – Cheyenne  
Sarah Naylor  
Brian Wood, Chron File

Lander Field Office • 510 Meadowview Drive • Lander, WY 82520 • <http://deq.state.wy.us>

ABANDONED MINES  
(307) 332-5085  
FAX 332-7726

AIR QUALITY  
(307) 332-6755  
FAX 332-7726

LAND QUALITY  
(307) 332-3047  
FAX 332-7726

SOLID & HAZARDOUS WASTE  
(307) 332-6924  
FAX 332-7726

WATER QUALITY  
(307) 332-3144  
FAX 332-7726

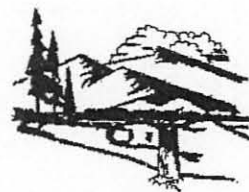


# Exhibit 3



# Department of Environmental Quality

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



Matt Mead, Governor

John Corra, Director

June 13, 2011

Mr. Brian Good  
3796 Lane 32 1/2  
Greybull, WY 82426

RE: License to Mine Application under Mine Permit No. 533

Dear Mr. Good,

I am returning the above-referenced materials that were received in this office today. By letter dated June 6, 2011 you were informed that the application to transfer mine permit no. 533 (TFN 5 1/240) had been terminated because Black Hills Bentonite had withdrawn their authorization of the permit transfer. As also explained in that letter, in order for you to obtain a license to mine under Black Hills' permit, you must provide a letter of permission from Black Hills. Such a letter was not provided with your submittal as required under item 3(b) on the application form for license to mine. Without permission from the permit holder, LQD cannot process the license to mine application.

Without Black Hills' consent, to either transfer permit 533 or obtain a license to mine, you will have to apply for a new mine permit in order to conduct mining operations on this property. Please refer to LQD Guideline No. 6 for a summary of the information required to apply for a mine permit. A copy is enclosed for your reference. I would encourage you to arrange a meeting with this office to discuss permit requirements before submitting an application.

Should you have any questions regarding this matter, please contact me.

Sincerely,

Mark Moxley  
LQD District 2 Supervisor

Enclosures: License to Mine application package received 6/13/11  
LQD Guideline No.6

cc: LQD Cheyenne  
Bruce Lawson, Black Hills Bentonite



# Exhibit 4



# Department of Environmental Quality

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



Matthew Mead,  
Governor

John Corra,  
Director

July 25, 2011

Mr. Brian Good  
3796 Lane 32½  
Greybull, WY, 82426



**RE: Mine Operation Investigation on Lands within Township 54N, Range 92W, Sections 19 and 30**

Dear Mr. Good,

Enclosed please find a copy of my Inspection Report of the unauthorized mining activity occurring within the above cited legal description. It is my recommendation that an enforcement action be taken for mining without a permit as stated in the Compliance Section of the attached report. The matter has been turned over to the Attorney General's Office and any questions should be directed to them.

Respectfully,

Brian R. Wood  
District II Hydrologist

- Cc **WyDEQ/LQD - Cheyenne, Permit 533 Correspondence File**  
 Mark Moxley > WyDEQ/LQD - Lander, Permit 533 Correspondence File  
 Luke Esch, Wyoming Attorney General's Office  
 Nancy Nuttbrock, WyDEQ/LQD - Cheyenne  
 Bruce Lawson, Black Hills Bentonite, P.O. Box 9, Mills, WY, 82644  
 Gretchen Hurley, BLM - Cody Field Office, 1002 Blackburn St., Cody, WY, 82414  
 Terry Adcock, Wyoming State Mine Inspector, P.O. Box 1094, Rock Springs, WY, 82802  
 Brian Wood, Chron

# INSPECTION REPORT



**OPERATOR:** Brian "Pab" Good aka Good Mining Company, LLC  
**INSPECTION DATE:** July 20, 2011  
**REPORT DATE:** July 25, 2011  
**PREPARED BY:** Brian Wood, District II Hydrologist  
**ATTENDEES:** Mark Moxley and Brian Wood, WyDEQ - Land Quality Division

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## INTRODUCTION

On July 18, 2011, the Wyoming Department of Environmental Quality – Land Quality Division (WyDEQ/LQD), District II Office was informed of potential unauthorized mining activity in Township 54N, Range 92W, Sections 19 and 30. Black Hills Bentonite (BHB), formerly Kaycee Bentonite Partnership currently holds a permit within this legal description (WyDEQ/LQD Mine Permit #533), see attached map. An inspection of the potential unauthorized mining activity was conducted on July 20, 2011.

## INSPECTION

Site inspection revealed active bentonite mining activity in progress. The extent of the disturbance was mapped with a Trimble GeoXM GPS receiver and the areal extent of disturbance encompasses approximately 8.5 acres (see attached map). All activity is shown to occur within the WyDEQ/LQD Permit 533 Boundary. The latest Permit 533 Annual Report filed by BHB did not indicate any proposed mining activity for 2011.

At the time of the inspection, there were six pieces of equipment on site: two dozers, two scrapers, one track hoe, and one motor grader. A Komatsu dozer was actively stripping topsoil in the NWNE of Section 30, Township 54N, Range 92W (**see Photo 1**). Much of the salvaged topsoil appears to have been hauled to the south along a road that has been constructed along the Mi Swaco property line (**see Photo 2**). The topsoil (assumed) stockpile that has been constructed adjacent to the Access Road is shown in **Photo 3**.

The trackhoe and Cat scraper were in the SWSE of Section 19 mining bentonite (**see Photos 4 and 5**). Mining began at the southern edge of where BHB or one of its predecessor operators (BHB was not the original Permit 533 permittee) ceased mining. It appears mining is advancing in a southerly direction, probably working around the most significant of the rock outcrops that overlook the Bear Creek valley. Mined bentonite is being hauled along a new road (**see Photo 6**) that has been established along the Mi Swaco property boundary and stockpiled on a pad, located on the east side of the access road, to dry (**see Photo 7**). On the whole, it appears that reasonable care has been taken to salvage topsoil, though in some areas the salvage appears weak (**see Photo 8**).

The main focus of the observed mining activity appears to be bentonite. However, immediately north of the staging area, four rows of moss rock were observed (**see Photo 9**). It is unknown what the disposition of this material is, but by its placement, it appears there is some future intended purpose.

Access to the site is provided by what Mi Swaco refers to as their Coyote Road, as it provides access to their Coyote Mine Area, which is located in the SW of Section 20, Township 54N, Range 92W and is visible on the attached map. As shown on the attached map, the Access Road passes through Bureau of Land Management (BLM), *Private*, and Mi Swaco property. The term *Private* is being used as Big Horn County's online record still shows Cinnamon Bear, LLC as the landowner. Mr. Good has indicated he has purchased the property, yet the WyDEQ/LQD has never seen a copy of the deed. Thus, WyDEQ/LQD has chosen to use the term *Private* until clarification is provided. Mi Swaco has a Right-of-Way agreement with the BLM (WYW141796) for this road and it is incorporated into their WyDEQ/LQD Permit 278C. For the section of Access Road that passes through *Private* property, Mi Swaco has an easement, which is on file at the Big Horn County Courthouse. Approximately one-quarter mile north of the Access Road intersection and on BLM land, some recent "stockpiling" of unclassified material (probably associated with the removal of mud from the road bed) was noted (**See Photo 10**). Mi Swaco staff was contacted about this and there is no indication that it was done by their operation's staff. No other operators utilize the Coyote Road for mine access, thus, it is assumed, but not 100-percent certain, that it is associated with the observed mining activity.

At the time of the site inspection, none of the equipment easily observed operating had any type of identification regarding the owner. Sometime ago, Mr. Good contacted the WyDEQ/LQD indicating that he had acquired rights to the *Private* land shown in the S½SE of Section 19 and NWNE of Section 30, Township 54N, Range 92W and was interested in starting a bentonite mine. The WyDEQ/LQD informed Mr. Good that the parcel he spoke of was currently permitted by BHB and he should talk to them about a permit transfer. Mr. Good talked with BHB about a transfer, however, it is the WyDEQ/LQD's understanding that agreement over the liability assumption of the existing disturbance was never reached, thus, BHB decided they were not interested in a permit transfer. Knowing the above, during a meeting in the early afternoon between the WyDEQ/LQD, Mr. Good, and his consultant, Emerson Scott, the WyDEQ/LQD informed Mr. Good that they were going to issue a Notice of Violation for the previously described mining activity occurring without any form of authorization. Mr. Good admitted that he was mining in the above described area and stated that he believed that he did not need a permit because his on-going mining activity was not for profit or gain as he had no contracts for the sale of the bentonite.

#### COMPLIANCE

The WyDEQ/LQD – District II office has determined the above described activity to be an illegal mining operation as it is in violation of W.S. §35-11-401 (a) which states "No mining operation or operation by which solid minerals are intended to be extracted from the earth shall be commenced after the effective date of the Act, except in accordance with its requirements." The described activity does not meet any of the exemptions described in W.S. §35-11-401 (e). The above activity is occurring within an existing mine permit boundary, BHB's Permit 533. Each operator, as defined by W.S. §35-11-103 (e)(ix), conducting mine related activities within a Permit Area is required to have a License to Mine. BHB has not authorized a License to Mine to Mr. Good. Based on the above violations of the Wyoming Environmental Quality Act, a Notice of Violation will be issued.





JUL 20 2011  
RECEIVED



**Photo 1 (above)** looks west across the area where Komatsu dozer was working to salvage topsoil. **Photo 2 (below)** looks south along a road that has been established that connects the main mining area with a topsoil stockpile area.







**Photo 3 (above)** looks southwest and shows the topsoil stockpile that has been constructed adjacent to the Access Road. **Photo 4 (below)** looks south at the active pit area (boom and bucket of the trackhoe are barely visible just to the right of photo center). Overburden from the initial boxcut has been stacked to the northeast. In the foreground is a windrow of what is construed to be suitable material.





REC'D  
JUL 26 2011  
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**Photo 5 (above)** looks to the north, showing the western edge of the active pit, with the trackhoe loading the Cat scraper. Overburden from the initial boxcut is shown in the background. **Photo 6 (below)** looks west along the haulroad that has been established along the Mi Swaco property boundary that connects the active pit area to the staging and pad areas.







**Photo 7 (above)** looks generally south and shows the bentonite drying pad area on the east side of the Access Road. On the west side of the access road a motor grader, Terex scraper, and a Cat D9 dozer were parked in an established staging area that was equipped with a fuel supply tank. **Photo 8 (below)** looks south at an area, located just south of the active pit, where some soil salvage had occurred. It is unknown if salvage operations in the area have been thought to be complete, some soil was still visible at this location.





LQD  
JUL 26 2011  
RECEIVED

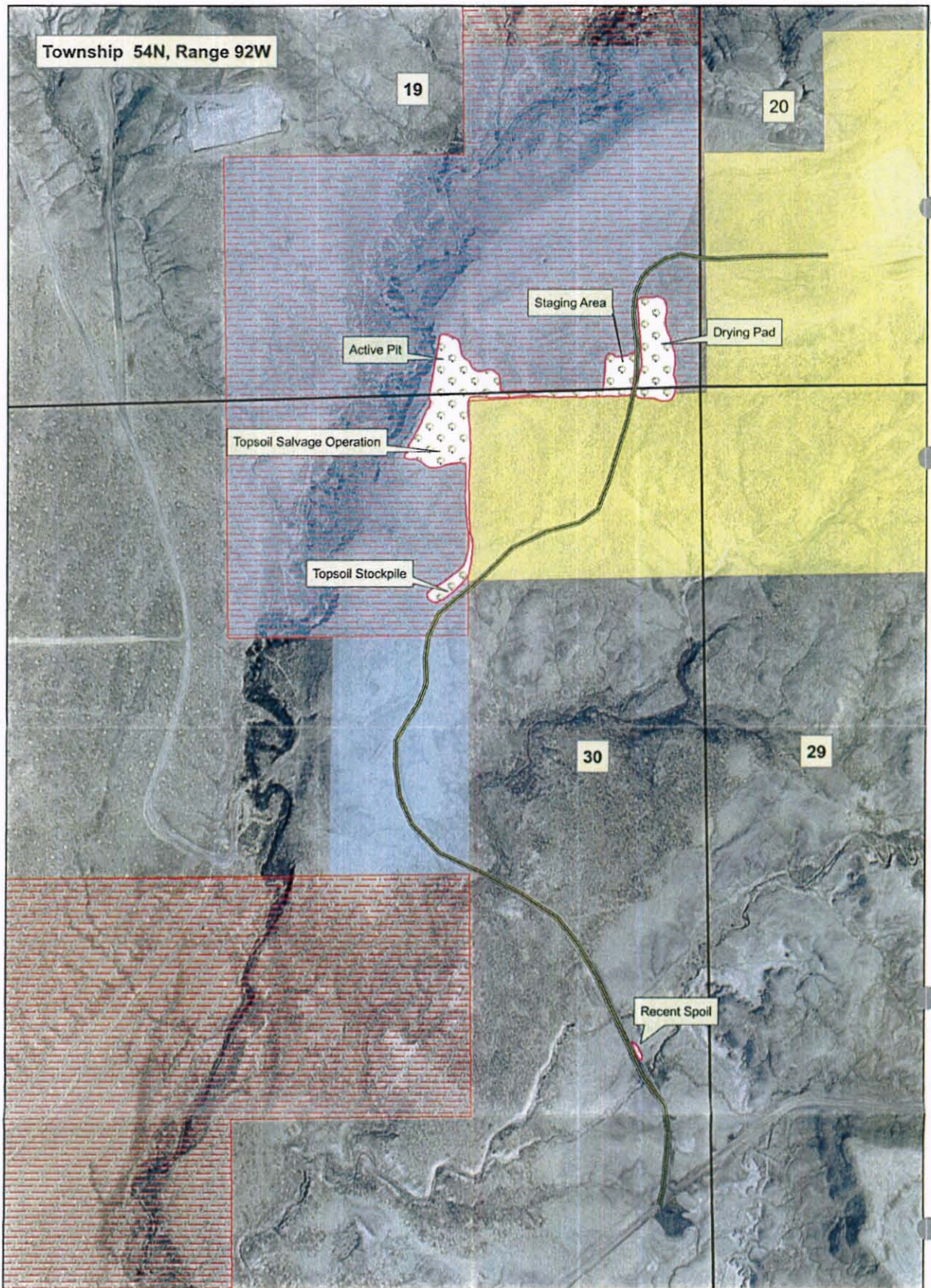


**Photo 9 (above)** looks west at four rows of moss rock that were stockpiled north of the staging area. **Photo 10 (below)** looks southeast at the recent pile of spoil / unclassified material that has been stockpiled on the east side of the Access Road.

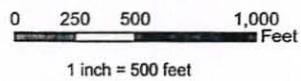








Mine Operation Investigation 6/20/2011



Lands not called out as Private Land or as Mi Swaco Land in the Legend are Bureau of Land Management Surface.

Legend

-  Access Road
-  Disturbed
-  Permit 533 Approx. Boundary
-  Private Land
-  Mi Swaco Land



# Exhibit 5





# Department of Environmental Quality



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

Matt Mead, Governor

John Corra, Director

July 29, 2011

**CERTIFIED MAIL, RETURN RECEIPT REQUESTED #7010 1670 0000 1344 8406**

Brian (Pab) Good  
Good Mining Company, LLC  
3796 Lane 32½  
Greybull, Wyoming 82426

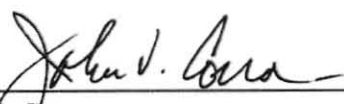
**RE: Notice of Violation, Docket No. 4868-11**

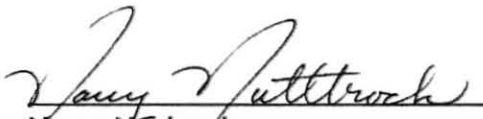
Dear Mr. Good:

Enclosed you will find a Notice of Violation and Order issued under the provisions of Wyoming Environmental Quality Act, W.S. §35-11-401(a) and W.S. §35-11-701. The Notice of Violation and Order is based on the inspection conducted by Mr. Mark Moxley and Mr. Brian Wood on July 20, 2011, a copy of which has already been provided to you.

The Wyoming Department of Environmental Quality / Land Quality Division (WyDEQ/LQD) considers these violations extremely serious, given the fact that you were instructed that you must first obtain a permit prior to proceeding with mining operations. This matter has been turned over to the State Attorney General's Office. If you wish to seek settlement of this issue, please contact Mr. Luke Esch, Assistant Attorney General at 307-777-7841 within 10 days of receipt of this Notice.

Respectfully,

  
\_\_\_\_\_  
John V. Corra  
Director  
Department of Environmental Quality

  
\_\_\_\_\_  
Nancy Nuttbrock  
Administrator  
Land Quality Division

Enclosure: Notice of Violation and Order

cc: Mark Moxley, LQD, District II  
**Luke Esch, Assistant Attorney General**

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH  
(307) 777-7937  
FAX 777-3610

ABANDONED MINES  
(307) 777-6145  
FAX 777-6462

AIR QUALITY  
(307) 777-7391  
FAX 777-5616

INDUSTRIAL SITING  
(307) 777-7369  
FAX 777-5973

LAND QUALITY  
(307) 777-7756  
FAX 777-5864

SOLID & HAZ. WASTE  
(307) 777-7752  
FAX 777-5973

WATER QUALITY  
(307) 777-7781  
FAX 777-5973



DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF )  
VIOLATION ISSUED TO )  
Brian (Pab) Good )  
Good Mining Company, LLC ) DOCKET NO. 4868-11  
3796 Lane 32½ )  
Greybull, Wyoming 82426 )  
RE: Unauthorized Mining Activity )

NOTICE OF VIOLATION AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Notice of Violation is being sent to you 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. In June 2011, the Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) was contacted by Mr. Good regarding his request to begin mining operations on his property in Big Horn County, Wyoming.
3. In a letter dated June 13, 2011, WDEQ/LQD informed Mr. Good that prior to mining, he would need to obtain a permit from the WDEQ/LQD.
4. On July 18, 2011, the WDEQ/LQD District II Office was informed of potentially illegal mining activity in Township 54N, Range 92W, Section 30, of Big Horn County, Wyoming.
5. On July 20, 2011, a site inspection was conducted. The site inspection revealed an active bentonite mining operation as described in an Inspection Report dated July 25, 2011. The areal extent of activity was mapped using a Trimble GeoXM datalogger and then imported into ArcMap. Results of the mapping effort, as provided in the Inspection Report, showed that the mining activity was occurring inside the WDEQ/LQD Permit #533 boundary. Review of the latest WDEQ/LQD Permit #533 Annual Report did not indicate any planned mining activity for 2011.
6. During a conversation subsequent to the site inspection, Mr. Good admitted to conducting the mining operation.
7. W.S. § 35-11-401(a) states "No mining operation or operation by which solid minerals are intended to be extracted from the earth shall be commenced after the effective date of the Act, except in accordance with its requirements."
8. Mr. Good willfully and knowingly violated the act when, after being informed by DEQ that he was required to obtain a permit prior to mining, he began mining without a permit or license to mine.
9. W.S. § 35-11-901(j) provides that any person who willfully and knowingly violates, authorizes, orders, or carries out the violation of any provision of this act or any rule, standard, permit, license or variance adopted there under is liable to a penalty of twenty-five thousand dollars (\$25,000.00) 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.
10. 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

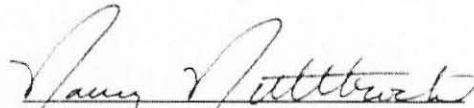
WHEREFORE IT IS HEREBY ORDERED THAT:

1. You hereby are directed to immediately cease and desist all mining and mining related operations within the Black Hills Bentonite WDEQ/LQD Permit #533 boundary, described as Township 54N, Range 92W, NWNE of Section 30 and E½SE and SWSE of Section 19.

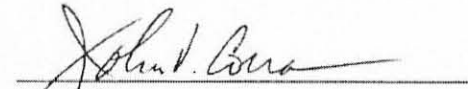
THIS ORDER is final unless, not later than ten (10) days after the date this notice is received, it is appealed by filing a written petition for a hearing before the Environmental Quality Council. If a hearing is requested, the petition shall be mailed to Chairman, Wyoming Environmental Quality Council, Room 1714 Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 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 the Environmental Quality Act, nor shall this Order be interpreted as being a condition precedent to any other enforcement action.

DATED THIS 29<sup>TH</sup> day of JULY, 2011.



Nancy Nuttbrock  
Administrator  
Land Quality Division



John Corra  
Director  
Department of Environmental Quality

**PLEASE DIRECT ALL INQUIRIES** regarding this Notice of Violation to Luke Esch,  
Assistant Attorney General, 123 Capitol Building, 200 W. 24th Street, Cheyenne, WY 82002,  
Telephone (307) 777-7841.

# Exhibit 6



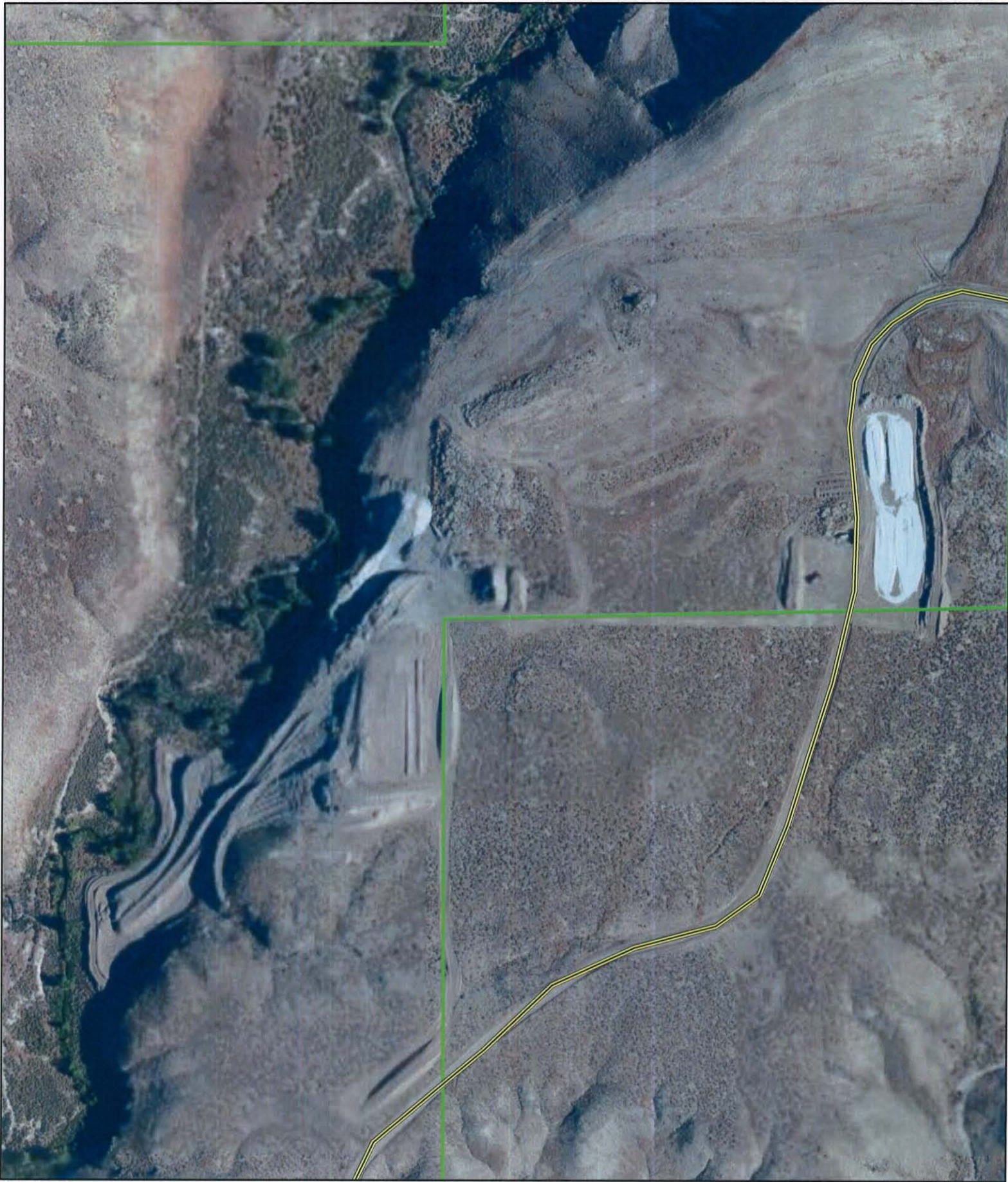
Permit 533 - Area of Interest Only - 2009 Imagery

1 inch = 400 feet





# Exhibit 7



Permit 533 - Area of Interest Only - 2011 Imagery

1 inch = 400 feet



# Exhibit 8



