

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

APR 25 2011

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF:)
James Pace)
P.O. Box 575)
Douglas, WY 82633)
And)
Peter J. Moore & Bonnie Smith-Moore)
103 Hwy. 59)
Douglas, WY 82633)

Docket No. 10-3207A

DEQ'S PREHEARING MEMORANDUM

Respondent Wyoming Department of Environmental Quality (DEQ) pursuant to the Wyoming Environmental Quality Council's (EQC) July 8, 2010 Order of Schedule and March 17, 2011 Notice of Hearing, submits the following Prehearing Memorandum.

DEQ WITNESSES

Will Call:

1. Rich Cripe, Southeast District Engineer, DEQ/Water Quality Division (WQD), Herschler Building 4th Floor West, 122 W. 25th Street, Cheyenne, WY 82002, (307) 777-7781. Mr. Cripe will be called to testify regarding the December 11, 2009 on-site inspection of the water and sewage systems serving the Grasslands Mobile Home Park (MHP) referenced in contested Notice of Violation (NOV) & Order No. 4631-10, a follow-up site-visit on April 14, 2010, information relating to the status of Grasslands MHP's compliance with applicable state statutes, regulations and standards for public water supplies and sewerage systems, specific requirements in contested DEQ Order No. 4631-10, and related safe drinking water issues.

May Call:

2. Kim Parker, Licensing Specialist / Sr. Environmental Analyst, DEQ/Water Quality Division (WQD), Herschler Building 4th Floor West, 122 W. 25th Street, Cheyenne, WY 82002, (307) 777-7781. Ms. Parker may be called to testify regarding information relating to the status of Grasslands MHP's compliance with applicable state

statutes, regulations and standards for public water supply system operator certification and specific requirements in contested Order No. 4631-10.

3. DEQ may call any of the other parties' witnesses for direct examination or any other witnesses for purposes of foundation, rebuttal or impeachment.

DEQ EXHIBITS

1. Contested Notice of Violation (NOV) & Order No. 4631-10.
2. DEQ's 1st Discovery Requests to the Paces.
3. DEQ's 2nd Discovery Requests to the Paces.
4. Paces' Responses to DEQ's 1st Discovery Requests.
5. Paces' Responses to DEQ's 2nd Discovery Requests.
6. DEQ's 1st Discovery Requests to the Moores.
7. DEQ's 2nd Discovery Requests to the Moores.
8. DEQ's 3rd Discovery Requests to the Moores.
9. Moores' Responses to DEQ's 1st Discovery Requests.
10. Moores' Responses to DEQ's 2nd Discovery Requests.
11. Moores' Supplemental Responses to DEQ's 1st & 2nd Discovery Requests.
12. Moores' Responses to DEQ's 3rd Discovery Requests.
13. Notice of Bonnie Smith Moore's deposition.
14. Wyoming SEO Application for Permit to Appropriate Ground Water #53707, Book No. 317, Page No. 39, dated September 16/19, 1980.
15. Wyoming SEO Application for Permit to Appropriate Ground Water #53708, Book No. 317, Page No. 40, dated September 16/19, 1980.
16. Contract between Grasslands Enterprises & Jordan Services (7-13-10).
17. Letter from Frank Strong IV, P.E. (M.C. Schaff & Associates, Inc.) to Bonnie & Peter Moore and James & Martha Pace, dated April 23, 2010, containing "Acceptance of Proposal" signed by Bonnie Smith Moore and Peter Moore, dated 6-30-2010.
18. Letter from Alicia Aschenbrenner (M.C. Schaff & Associates, Inc.) to Bonnie Moore, dated July 29, 2010.
19. Cover letter from Frank Strong IV, P.E. (M.C. Schaff & Associates, Inc.) to Bonnie & Peter Moore, dated October 28, 2010, with enclosed "final water / wastewater evaluation report for Grasslands Mobile Home Park" (8 pages plus Appendix 1).

20. Letter from Rich Cripe (DEQ) to Peter Moore and Bonnie Smith-Moore, dated March 17, 2010.
21. "Request for Information" letter from Aaron Urdiales and David Rochlin (EPA Region 8) to Peter and Bonnie Moore, dated Dec. 17, 2009.
22. "Attachment for requested information" signed by Bonnie Smith-Moore, dated 01-12-10 (with "Statement of Certification" signed by Bonnie Smith-Moore, dated 01-12-2010).
23. Other exhibits as may be needed for purposes of foundation, rebuttal or impeachment.

CONTESTED ISSUES

1. Whether the existing public water supply system serving the Grasslands MHP complies with applicable Wyoming water quality statutes, standards and regulations.
2. Whether the existing sewerage system serving the Grasslands MHP complies with applicable Wyoming water quality statutes, standards and regulations.
3. Whether the requirements in DEQ Order No. 4631-10 pertaining to the existing public water supply system serving the Grasslands MHP are appropriate under applicable Wyoming water quality statutes, standards and regulations.
4. Whether the requirements in DEQ Order No. 4631-10 pertaining to the existing sewerage system serving the Grasslands MHP are appropriate under applicable Wyoming water quality statutes, standards and regulations.

UNCONTESTED FACTS

1. Petitioners James and Martha Pace (the Paces) and Petitioners Peter Moore and Bonnie Smith-Moore (the Moores) are contesting Notice of Violation (NOV) & Order No. 4631-10 issued by the DEQ dated March 11, 2010, which alleges certain violations and requires corrective measures regarding the water supply system and the sewerage system serving the Grasslands Mobile Home Park (MHP) on highway 59 north of Douglas, Converse County, Wyoming.
2. The Grasslands MHP is served by its own water supply system and sewerage system, which are separate from the City of Douglas' water supply system and sewerage system.
3. Grasslands MHP was previously known as "Mountain View Trailer Park."
4. The Paces are currently the record title owners of the Grasslands MHP.

5. The Paces purchased the Grasslands MHP property in 1984.
6. The Paces sold the Grasslands MHP by contract to the Moores in September, 2004.
7. The Moores have operated the Grasslands MHP since they purchased it from the Paces in September, 2004.
8. The contested Order lists 13 requirements to address the alleged violations.
9. The Grasslands MHP is currently in compliance with Order requirements #1, #3, #4, #5 (designation and retention of chief and backup certified operators), and #7 (retention of licensed engineer to evaluate existing water supply system).
10. The Moores contracted with Jordan Services, LLC of Douglas for pumping, hauling and proper disposal of sewage from the Grasslands MHP sewerage system.
11. The Moores retained licensed Wyoming engineer Frank A. Strong IV (M.C. Schaff & Associates, Inc.) to evaluate the existing Grasslands MHP water supply system and sewerage system.
12. The Grasslands MHP is currently in at least partial compliance with Order requirements #6 (contract with sewage hauler and submittal of quarterly reports) and #8 (retention of licensed engineer and licensed geologist to evaluate existing sewerage system).
13. Each unit at the Grasslands MHP has a separate service connection to the water supply system and the sewerage system.
14. As of January, 2010, there were 46 residents living at the Grasslands MHP.
15. The Paces have never applied for or obtained a permit from DEQ or from Converse County's delegated program for the Grasslands MHP water supply system.
16. The Paces have never applied for nor obtained a permit from DEQ or from Converse County's delegated program for the Grasslands MHP sewerage system.
17. The Moores have never applied for or obtained a permit from DEQ or from Converse County's delegated program for the Grasslands MHP water supply system.

18. The Moores have never applied for or obtained a permit from DEQ or from Converse County's delegated program for the Grasslands MHP sewerage system.

19. At the time the Paces purchased the Grasslands MHP in 1984, the water supply system acquired water from two (2) wells drilled in 1977 and 1980.

20. Jim Pace put in the third well in the mid-1980s, after the Paces purchased the Grasslands MHP.

21. At the time the Paces turned over possession and operation of the Grasslands MHP to the Moores in September, 2004 the water supply system included three (3) wells.

22. The Grasslands MHP water supply system currently includes three (3) wells that lack a disinfection process, and there is not an ongoing or routine practice to disinfect the Grasslands MHP water distribution lines.

23. The sewage system had three (3) septic tanks when the Paces purchased the Grasslands MHP in 1984.

24. Jim Pace added a 1000 gallon cement tank after 1984, through which water passes on to the septic tank south of the shop.

25. At the time the Paces turned over possession and operation of Grasslands MHP to the Moores in September, 2004 there was a septic tank located near the southwest corner of the Grasslands MHP, with a leach field.

26. At the time the Paces turned over possession and operation of Grasslands MHP to the Moores in September, 2004 there was a septic tank located south of the operator's trailer at the Grasslands MHP, with a leach field.

27. At the time the Paces turned over possession and operation of Grasslands MHP to the Moores in September, 2004 there was a septic tank located south of a shop near the southeast corner of the Grasslands MHP, *without* a leach field.

28. The Grasslands MHP sewerage system currently includes a septic tank located near the southwest corner of the Grasslands MHP, with a leach field.

29. The Grasslands MHP sewerage system currently includes a septic tank located south of the operator's trailer (Moores' house), with a leach field.

30. The Grasslands MHP sewerage system currently includes a septic tank located south of a shop near the southeast corner of the Grasslands MHP, *without* a leach field.

31. The Grasslands MHP sewerage system also currently includes the cement tank added by Jim Pace after 1984, through which water passes on to the septic tank south of the shop.

DATED this 22nd day of April, 2011.



Mike Barrash (WY Bar #5-2310)
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CERTIFICATE OF SERVICE

This certifies that true and correct copies of the foregoing DEQ'S PREHEARING MEMORANDUM with listed DEQ Exhibits were served by Federal Express this 22nd day of April, 2011 (and the PREHEARING MEMORANDUM was also served by facsimile transmission or email not later than April 25, 2011) addressed as follows:

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