

Leon Kjellgren

From: Deb Wolfley [dwalpine@silverstar.com]
Sent: Monday, August 24, 2009 12:44 PM
To: 'Leon Kjellgren'
Subject: SALL / Tavern

FILED
APR 08 2010
Jim Ruby, Executive Secretary
Environmental Quality Council

April 6th, (Friday) 2007, town maintenance director, Val Jensen noticed a new septic tank being installed behind the building of the Tavern on the Greys. Val talked to town building inspector, Joe Sender, about the tank being installed and no permit was issued by the town.

Police Officer Mark Gizas of the Alpine Police Department was instructed by Town Officials to verbally tell the owners of the Tavern on the Greys to cease and desist work on the installation of the septic tank until a permit was issued. Officer Gizas did verbally advise the Owners to cease and desist.

April 9th, 2007, Town Inspector Joe Sender and Town Maintenance Director, Val Jensen went to Tavern on the Greys to look at septic tank and discovered that the tank had already been installed. Sometime during the week end, the new tank had been installed.

April 10, 2007, Carla Stone, co owner of the Tavern turned in a "Small waste water system permit and application" to the Town. Fees were paid at that time.

No permit was issued by the Town due to the fact that no inspection was made prior to installation of the septic tank.

7-25-08, Town Officials was contacted by owners of the property at the Tavern on the Grey's, Lot 2A of the Palispark Subdivision about a leach field problem that needs to be fixed. They were told by Terra Miller, P&Z secretary that the site would have to be inspected by Jody Tippetts, the Town Building inspector before a permit could be issued. Carla Stone paid the fees at that time. On 7-28-08, he was called by the property owners to inspect a leach field. He went there, but they were not yet ready for inspection. On 7-31-08 he was called back for inspection, which Jody said they passed inspection.

8-1-08, (Friday), Town Building Inspector Jody Tippetts, brought in to Town Hall a "Septic Permit Application" sheet for lot 2A of the Palispark Subdivision, owned by S.A.L.L. LLC, and Tavern on the Grey's. Terra changed the form to read "Leachfield Permit Application" and wrote in big red letters "Temporary" on top of the form because of the sewer ordinance language.

8-4-08, Terra filled out a "Small Wastewater System Permit Application" with all the appropriate information. By the signature line for property owner, Terra wrote in "Temporary Leach Field Only". She was unsure if she had charged the right amount of fee for a leach field permit, so it was taken to council meeting on 8-5-08. Council approved the \$100.00 fee for a temporary leach field permit. The Town notified SALL / Tavern of the permit and that it was a temporary permit, but they refused to sign it because it said temporary.

8-8-08, Town Attorney mailed letter to SALL/ Tavern a letter clarifying the Town's position on the septic tank and leach field matter.

8-12-08, SALL / Tavern Group responded with a letter.

8-20-2008 Town Attorney responded with letter and it was delivered by Town Administrator.

9-22-08 town Administrator mailed a letter to SALL reminding them that the permit needs to be signed.

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10-21-2008 Vickie asked Mr Lewis during council meeting to come in and sign the application for the temporary leach field permit, but Mr Lewis said he was not going to sign it because it said temporary.

Vickie on one of these issues went over to the Tavern and told Diggs that he needs to get a permit, but I can't remember which incident it was. She will be back tomorrow and I will ask her and let you know.

If you need anything else, please let me know.

8/27/2009

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Oct 02 09 08:43a

Baron, Mark

From: Leon Kjellgren [lkjellgren@nelsonengineering.net]
Sent: Tuesday, September 08, 2009 8:30 AM
To: Baron, Mark
Cc: Vickie DeCora; Stefan Fodor
Subject: SALL Water Meter Data

Mark,

Water Meter readings for the month of July and August 2009 are now available for the SALL property. There are two meters totaling an **average** of 2287 gpd for the month of July and 2230 gpd for the month of August. The Town has allowed them to use an onsite well for irrigation purposes so it is assumed that all domestic water is being used for domestic purposes on the property and none is being used for irrigation. They better not have a cross connection between the well system and our water system, and they were instructed not to do that when the well was permitted. I believe that they understand the potential problem that could cause. The values over 2000 gpd provide another parameter to exclude them from a "small wastewater system" and in fact elevate the bar to a much higher level as described in Chapter 16 of the Rules and Regulations.

It should be noted that observable occupancy in the RV Park over the months of July and August 2009 was significantly less than 100%. During periods of complete occupancy, like last year when Lower Valley Energy was installing their gas line down the Hoback Canyon, daily sewage flows would have been significantly higher. Water meter values at that time, however, are suspect due to significant leakage in the interior RV Park system. This year's readings are believed to be reliable as it has been reported by SALL that the leaks have been repaired.

Leon R. Kjellgren, P.E.

Project Manager

Nelson Engineering
P.O. Box 1599
Jackson, WY 83001
P: 307.733.2087
F: 307.733.4179
lkjellgren@nelsonengineering.net

Mr. John Corra
Director
Wyoming Department of Environmental Quality
122 West 25th St.
Herschler Building
Cheyenne, WY. 82002

Mr. John Wagner
Administrator, Water Quality Division
Wyoming Department of Environmental Quality
122 West 25th St.
Herschler Building, Fourth Floor West
Cheyenne, WY. 82002

Mr. Lou Harmon
SE District Engineer
Water Quality Division
Wyoming Department of Environmental Quality
122 West 25th St.
Herschler Building
Cheyenne, WY. 82002

Mr. Jay Jerde
Wyoming State Attorney General's Office
123 Capitol Building
200 W. 24th St.
Cheyenne, WY. 82002

PETITION FOR REVIEW

Pursuant to the Wyoming Department of Environmental Quality Rules of Practice and Procedure, Chapter I, General Rules of Practice and Procedure and Chapter 6, Review by the Director, SALL, LLC, and The Tavern, LLC, request a review by the Director of a directive issued October 30, 2009, by Mr. Mark Baron, Southwest District Engineer, Water Quality Division, a copy of which is attached hereto. Petitioners SALL and The Tavern have, through counsel, made repeated and unsuccessful attempts to obtain factual information and data from Mr. Baron which was provided to him by the Town of Alpine, Nelson Engineering, and perhaps

other sources, all to no avail. Petitioners SALL and The Tavern believe, based upon representations by Mr. Baron that a review of his directive was approved "in Cheyenne," that the Administrator, Water Quality Division, has approved or otherwise acted or not acted in such a manner as to ratify the actions of Mr. Baron.

Pursuant to Ch. VI, Sec. 2(a) and Ch. I, Sec. 3(c)(i) to (iii), the following information is provided:

1. The name and address of the person making this request is Diggs Lewis, through counsel, Gary L. Shockey, for and on behalf of SALL, LLC, and The Tavern, LLC. The address for Mr. Lewis, SALL, and The Tavern is Box 3819, Alpine, WY., 83128 and the address for counsel is Box 10773, Jackson, WY., 83002.

2. The action that is requested to be reviewed is described in the attached letter of October 30, 2009, from Mr. Baron to Petitioners. Additionally, the action/inaction of Mr. Baron for which review is requested is his failure and refusal to respond to multiple requests for documentation of evidence and data upon which his directive was based. A hard copy of emails to this effect is also attached.

3. The facts upon which this request is based are stated in the attached materials. Essentially, Petitioners assert that information and data provided to Mr. Baron by the Town of Alpine and/or its agents was very likely erroneous. Additionally, Petitioners assert that Mr. Baron and the DEQ do not have the authority to issue a conditional permit with conditions described in Mr. Baron's directive. Additionally, Petitioners assert that the Town of Alpine approved the actions of SALL and The Tavern, that they have/had legitimate permission for actions that were taken, and that any further action is unauthorized.

Petitioners further request that the Director conduct a hearing on this issue and provide Petitioners the right and opportunity to review all information previously requested prior to the hearing and the opportunity to compel the attendance of witnesses for the purpose of examining the data involved.

DATED this 12th day of November, 2009.

November 12, 2009

Mr. John Corra
Director
Wyoming Department of
Environmental Quality
122 West 25th St.
Herschler Building
Cheyenne, WY. 82002

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Administrator, Water Quality Division
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Pursuant to the provisions of Wyo. Stats., Section 35-11-1101 and the Public Records Act, on behalf of SALL, LLC and The Tavern, LLC, I request that we be provided with all "records, reports or information" in the possession or knowledge of the

Wyoming Department of Environmental Quality pertaining to or in any way related to the actions underlying the attached October 30, 2009, letter from Mr. Mark Baron to Petitioners.

Sincerely,

Gary L. Shockey