

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

**FILED**

MAR 25 2010

Jim Ruby, Executive Secretary  
Environmental Quality Council

IN THE MATTER OF THE NOTICE OF )  
VIOLATION ISSUED TO: )

SALL Enterprises, LLC )  
P.O. Box 3189 )  
Alpine, WY 83128 )

DOCKET NUMBER 4626-10

NOTICE OF VIOLATION

AND

ORDER

**NOTICE IS HEREBY GIVEN THAT:**

1. SALL Enterprises, LLC is the owner of the Tavern on Greys Bar and RV Park sewage collection, treatment and disposal system, located in Lot 1A and Part of Tract 2A, Palis Park Subdivision, Town of Alpine, Lincoln County, Wyoming. This location is about 1000 feet south of the Snake River and east of Highway 89 at the address of 25 Highway 89, Alpine, Wyoming.
2. In a letter dated February 18, 1994 to Dennis Hemmer of the Wyoming Department of Environmental Quality, from Frank Hess, attorney for the Town of Alpine, the Town of Alpine entered into a Delegation Agreement with the Wyoming Department of Environmental Quality. This agreement, under W.S. 35-11-304, allows the Town of Alpine to issue permits for the construction of septic systems (small wastewater facilities) within the Town of Alpine.
3. SALL Enterprises, LLC submitted the first of two Septic Permit Applications (SP-01-07) to the Town of Alpine on April 10, 2007. The first application was for the installation of a 1000 gallon AMCOR low profile concrete septic tank. Under the applicant's business phone, phone numbers for Carla Stone, Diggs Lewis and Jeff Atwood are listed.
4. On septic permit application (SP-01-07) SALL Enterprises, LLC did not sign the application.
5. On septic permit application (SP-01-07) Joe Sender, septic system inspector for the Town of Alpine did sign the application on April 10, 2007.
6. On septic permit application (SP-01-07) the following statement is signed by Joe Sender: "In accordance with the application received and site inspection(s) conducted on 4-12-07 by Joe Sender a permit is hereby issued. The permit indicates only that standards of design and construction required by the Town have been met. However, the Town does not in any way guarantee the performance of the facility and recommends that the applicant follows the general "Operation and Maintenance of Septic Tank/Leach System" as provided herein."
7. On septic permit application (SP-01-07) the statement "Permit issued by Town of Alpine Administrator" was not signed and dated.
8. SALL Enterprises, LLC submitted the second septic permit application (SP-02-08-Temp) to the Town of Alpine on August 4, 2008 for the construction of a septic system disposal area of 1520 square feet to serve a commercial tavern.
9. Under septic permit application (SP-02-08-Temp) SALL Enterprises, LLC did not sign the application. The septic system Inspector for the Town of Alpine and the Town Administrator for the Town of Alpine also did not sign the application.
10. Wyoming Statute (W.S.) 35-11-301(a)(iii) requires a permit from the Department of Environmental Quality (DEQ), or the delegated program, prior to the construction of any sewerage system, treatment works, or disposal system.

11. During a August 19, 2009 phone (208-547-7645) conversation between Diggs Lewis and Mark Baron, the following construction by Sall Enterprises, LLC was described by Diggs Lewis:
  - a. The septic tank that serves the bar septic system was moved to prevent the service line to the tank from freezing,
  - b. Joe Sender did a inspection of the bedding,
  - c. A new leach field for this system was also constructed,
  - d. Jody Tibbets, septic system Inspector for the Town of Alpine, did an inspection of the leach field.
12. In a letter dated August 25, 2009 from Leon Kjellgren, P.E., who represents the Town of Alpine, to Lou Harmon with the Wyoming Department of Environmental Quality it is indicated that on the dates of April 6, 2007 and July 25, 2008 that construction of a septic system to serve the property owned by SALL LLC took place within the Town of Alpine without a permit to construct being issued by the Town of Alpine or the Wyoming Department of Environmental Quality.
13. SALL Enterprises' relocating a septic tank and constructing a leach field without a permit to construct from either the Town of Alpine or the Wyoming Department of Environmental Quality is a violation of Chapter 3, Section 1 of the Wyoming Water Quality Rules and Regulations and is also a violation of W.S. 35-11-301(a)(iii).
14. This Notice is being sent to you pursuant to W.S. 35-11-701(c)(i), which requires that in any case of the failure to correct or remedy an alleged violation, the Director of DEQ shall cause a written notice to be issued and served on the person alleged to be responsible.
15. Pursuant to Wyoming Statute 35-11-901(a), any person who violates, or any director, officer or agent of a corporate permittee who willingly and knowingly authorizes, orders or carries out the violation of any provision of the Environmental Quality Act (Act), or any rule, regulation, standard or permit adopted hereunder or who violates any determination or order of the council pursuant to this act or any rule, regulation, standard, permit, license or variance is subject to a penalty not to exceed ten thousand dollars and no cents (\$10,000.00) for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction.

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. Nothing herein shall preclude the department from negotiating stipulated settlements involving the payment of a penalty, implementation of compliance schedules or other settlement conditions, in lieu of litigation.

### **ORDER**

#### **BEFORE THE ENVIRONMENTAL QUALITY COUNCIL - STATE OF WYOMING**

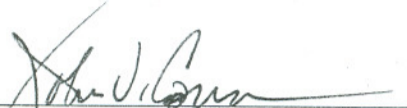
##### **WHEREFORE IT IS HERBY ORDERED THAT:**


1. No later than June 1, 2010 a permit to construct application, along with plans and specifications, must be submitted to the Wyoming Department of Environmental Quality, Water Quality Division, Southwest District Engineer by a professional engineer licensed in the State of Wyoming.
2. This application must provide as-built information for all the wastewater system construction that was completed on the SALL Enterprises' property in the Town of Alpine on or after January 1, 2006.
3. This application must include an estimate of the total maximum and average daily wastewater flow for each of the septic systems on SALL Enterprises' property in the Town of Alpine.

This ORDER is final, unless it is appealed in writing within the ten (10) day time limit prescribed by W.S. 35-11-701(c). If a hearing is requested, the first hearing petition shall be mailed to the Chairman, Wyoming Environmental Quality Council, Room 1714, Herschler Building, 1<sup>st</sup> Floor West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of Environmental Quality, Herschler Building, 4<sup>th</sup> Floor West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail return receipt requested.

**NOTHING IN THIS NOTICE OF VIOLATION (NOV) and ORDER** shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV and Order be interpreted as being a condition precedent to any other enforcement action.

Ordered this 19 day of March, 2010.

  
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John V. Corra  
Director  
Department of Environmental Quality

  
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John F. Wagner  
Administrator  
Water Quality Division

**PLEASE DIRECT ALL INQUIRIES TO:** Lou Harmon, Water and Wastewater Program Manager,  
WY DEQ/WQD, 122 W 25<sup>th</sup> Street, Cheyenne WY 82002, Phone 307-777-7088, FAX 307-777-7610

JVC/JFW/LBH/bb/10-0139

- xc:     IPS  
          Mark Baron, P.E., W&WW Section, Lander (PDF)  
          Keith Guile, DEQ Public Information Officer (PDF)  
          Mr. Deb Wolfley, Town Administrator, Town of Alpine, PO Box 3070, Alpine, WY, 83128  
          Environmental Quality Council  
          Director, WDEQ