



*Gary L. Shockey*

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April 5, 2010

Chairman  
Environmental Quality Council  
Room 1714  
Herschler Building  
1<sup>st</sup> Floor West  
122 W. 25<sup>th</sup> St.  
Cheyenne, WY. 82002

**FILED**

APR 08 2010

Jim Ruby, Executive Secretary  
Environmental Quality Council

Director  
Wyoming Department of Environmental Quality  
Herschler Building  
4<sup>th</sup> Floor West  
122 W. 25<sup>th</sup> St.  
Cheyenne, WY. 82002

Re: SALL Notice of Violation; Order  
Docket No. 4626-10

Dear Mr. Chairman and Mr. Director,

Enclosed is a Petition for Review/Appeal/Request for Hearing in the captioned matter.

I also enclose a Petition for Issuance of Subpoenas, an original and two copies of the subpoenas for the EQC, a copy for DEQ, and a Notice of Depositions. I would appreciate it if the subpoenas could be issued from the EQC as soon as possible and returned to me in the enclosed, prepaid Federal Express envelope.

If there are any questions, I can be reached on my cell at 307 690 8060 most any time. I travel a lot, so the cell is the best way to contact me directly. You can also contact my legal assistant at my office number 307 733 5974 and/or leave a message at that number.

Thank you for your attention to this matter.

Sincerely,

  
Gary L. Shockey

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

APR 08 2010

Jim Ruby, Executive Secretary  
Environmental Quality Council

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

) Docket No. 4626-10  
)  
)

SALL Enterprises, LLC. )

**PETITION FOR REVIEW/APPEAL OF ORDER/REQUEST FOR  
HEARING**

SALL Enterprises, LLC, (hereafter SALL) requests a review of, hereby appeals, and requests a hearing concerning an Order of Director John V. Corra and Administrator John F. Wagner, dated March 19, 2010, in the matter captioned above. A copy of the Notice and Order is attached hereto. Although the Notice and Order are dated March 19, 2010, they were not received by SALL until March 31, 2010. As grounds for this Petition for Review and/or Appeal, SALL, through counsel, states as follows:

1. The name and address of Petitioner/Appellant is SALL, LLC, Box 3189, Alpine, WY. 83128. The name and address of SALL's counsel is Gary L. Shockey PC, Box 10773, Jackson, WY. 83001.

2. The Notice of Violation and Order at issue is attached.

3. The facts upon which this Petition is based are set forth as follows, bolded and excerpted from Notices of Claim filed with the Town of Alpine and the State of Wyoming:

[The following information is from a prior notices of claim duly filed with the Town of Alpine and the State of Wyoming, Department of Environmental Quality]:

**A. CLAIM AGAINST TOWN OF ALPINE**

**The gravamen of this claim is that actions of the Town of Alpine in conjunction with the planning, construction, financing, and assessment of costs for a sewer treatment plant have and will cause irreparable financial**

**harm and loss of property and investment by Claimants and others similarly situated within the Town of Alpine, Wyoming. Alpine Town Ordinance 185, designated as 185 Ordinance No. 2008-41 in Town records, marked the culmination of years of inappropriate planning and acts by the Town of Alpine.**

**In brief summary, the Town of Alpine, Wyoming, undertook a project to replace an existing sewer treatment facility without proper and complete evaluation of the need for replacement of the then-existing facility. The Town of Alpine acted, in part, on the advice and counsel of Nelson Engineering, which prepared a purported Feasibility Study. That Feasibility Study was based and prepared on inadequate data with respect to the then present and future capabilities of existing facilities. The Feasibility Study was also based and prepared on inadequate data with respect to current or future wastewater flows. In addition, the Feasibility Study was prepared by the employer of Leon Kjellgren, who also was under contract with the Town of Alpine to act as Town Engineer.**

**In spite of the inadequacy of data for the underlying Feasibility Study, over the course of months and years the Town of Alpine proceeded with the project to construct a sewer treatment facility; securing loans and financing through the State of Wyoming, all without adequate information. Claimants and others similarly situated participated as fully as possible in public processes to demonstrate the problems and inadequacies of the plans as they were developed and implemented, all to no avail.**

**In addition to public financing, the Town of Alpine also relied on the creation of a contractual relationship with a private developer, North Star, to secure adequate funding commitments for the project. This form of funding was relied on despite the uncertainties of economic growth and demand for property. Claimants assert on information and belief that the Town of Alpine is currently engaged in negotiations with the private developer to diminish and/or delay payments from the developer, thereby increasing the burden on other citizens and businesses in the Town of Alpine to pay the obligations for the construction of the sewer treatment facility.**

**Advice, suggestions, and protests of Claimants and those similarly situated were not followed by the Town of Alpine. A workable proposal to create an improvement district was submitted but ignored. Much data demonstrating the devastating effect of proposed assessments on Claimants' businesses and properties, and of those similarly situated, was presented but ignored. As a final effort to avoid the financial impacts of the Town's actions, Claimants filed a petition to be de-annexed from the Town of Alpine. The Town has declined to act on that petition, leaving Claimants with no relief from their petition and no further recourse prior to the date payments originally scheduled to begin to accrue against Claimants, July 1,**

2009, said date amended to July 31, 2009. Claimants have exhausted all possible remedies alternative to litigation.

The nature and extent of litigation claims that may be made include, but are not limited to, the following:

1. A complaint for declaratory judgment seeking the Court's ruling that the entire process leading to the passage of the referenced Ordinance was flawed and illegal in the following, but not exclusive, respects:

a. Violation of Wyoming Constitutional provisions guaranteeing equal protection, due process, and uniform operation of all laws.

b. Actions by the Town of Alpine beyond and outside the scope of authority for incorporated towns as provided in Title 15 of the Wyoming Statutes.

2. A complaint for injunctive relief to prevent the Town of Alpine from taking steps to administer the assessments, collection procedures, and lien provisions in the referenced ordinance.

3. Claims for monetary damages.

4. Claims that the mechanisms employed by the Town of Alpine to create different classes of assessments were arbitrary and capricious, including but not limited to the delineation of septic systems older than fifteen (15) years as those that must be de-activated without consideration of the safety and effectiveness of such systems.

5. Claims that the referenced Ordinance does not state an effective date, thereby rendering determination of subsequent legal actions impossible.

6. Claims that the title and lack of effective date in said Ordinance render it or portions of it null and void.

7. Claims for inverse condemnation of Claimants' property by virtue of the economic effect of the proposed assessments. This claim is directed specifically at, but not limited to, actions of the Town to force claimants to abandon their septic

8. A claim for a writ of mandamus to require action on Claimants' petition to de-annex.

#### **B. CLAIM AGAINST THE STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:**

The foregoing claim was ultimately denied by the Town of Alpine. Litigation against the Town of Alpine was commenced in the District Court, Third Judicial District, State of Wyoming, in Kemmerer, Wyoming. That case is in its early stages of litigation.

For their claims against the State of Wyoming, Department of Environmental Quality, and/or unnamed or currently unknown agencies of the State of Wyoming, Claimants incorporate the above facts and information in full, and further state as follows:

1. After the litigation against the Town of Alpine was filed, the Town of Alpine, through its Town Attorney, Stefan Fodor, engaged in activities intended and directed to deter and deprive claimants from efforts to exercise and determine their legal rights in the judicial forum.

2. Specifically, on August 11, 2009, Mr. Fodor sent the following e-mail communication to counsel for Claimants:

I have been asked by the Town of Alpine to convey the following to you: If your clients persist with this lawsuit, the Town will be obligated to involve Wyoming DEQ in defense of The Town's actions and will disclose to DEQ all of your client's actions as well as those of their predecessors in interest, including, but not limited to, operating with unpermitted septic tanks and leach fields in violation of DEQ regulations. At that point, your clients fight will be not only with the Town, but also with DEQ. I have been instructed to give your clients until Friday the 14<sup>th</sup> of August to rescind their lawsuit. Barring that, the Town will be involving DEQ.

3. Claimants did not "rescind" their lawsuit. As a consequence, it appears that the Town of Alpine engaged the Wyoming Department of Environmental Quality in an effort to bring pressure to bear on Claimants to abandon their litigation. Claimants are unaware of all details of that effort, as the Department of Environmental Quality has refused, on multiple occasions, to provide Claimants with all data and information generated in the activities of the Town, DEQ, and Nelson Engineering, by and through Mr. Leon Kjellgren, former Town Engineer for the Town of Alpine.

4. Having been denied properly requested information and data generated in the DEQ/Town/Nelson investigative, deliberative, and decision-making process, Claimants allege on information and belief that the Town of Alpine provided false, misleading, and incomplete information to the principal DEQ representative involved, Mr. Mark Baron. Claimants further state on information and belief that Mr. Baron was aware of, or should have been aware of, the fact that the information provided was incorrect due to his prior interactions with claimants and if he had conducted his procedures in accordance with generally acceptable investigative and deliberative principles. Claimants further state that it is their belief that Mr. Leon Kjellgren was actively involved in these processes, all of which ultimately led to a directive from DEQ to claimants dated October 30, 2009, directing Claimants to undertake activities and stating conditions that were: 1) not justified by the facts and 2) not within the scope of authority of the DEQ.

5. In sum, but not exclusively, the Baron directive was based on water usage information that was incorrect or misinterpreted. The Baron directive made statements and assumptions about the failure of claimants to secure required permits in the past when, in fact, Mr. Baron had actively

participated in one permitting process and knew or should have known of the other. The Baron directive was issued at a time of year with requirements that could not be met, if claimants had chosen to do so, through the ensuing winter months. The Baron directive also attempted to limit a proposed permit to a short time period, which was both beyond the authority of DEQ and which made Mr. Baron's other requirements economically impossible for claimants.

6. In response to the Baron directive, claimants, both directly and through counsel and a representative engineer, have made numerous efforts to get relief from the illegal and intemperate requirements of the Baron directive. Formal requests, pursuant to statute, for disclosure of data and facts that supported the Baron directive were made and repeated over and over. No such information has been provided. In lieu of providing information, the DEQ has apparently taken the position that claimants should position themselves in the process in such a way as to ripen an opportunity to appeal the EQC. That course of action, if adopted by claimants, would result in an appeal to the EQC without claimants or the EQC in possession of information which the DEQ is legally obligated, but has refused to provide to claimants.

7. Claimants state that the actions of the DEQ have been in concert with the Town of Alpine and Nelson Engineering and that the combined activities of all these entities have constituted an actionable conspiracy to deprive claimants of their property rights. The more direct intent of the Town, DEQ, and Nelson has been to force claimants into hooking into the illegal new sewer system constructed by the Town of Alpine and join the revenue sources the Town needs to pay the financing on its ill-conceived project.

8. The current litigation against the Town of Alpine includes claims for inverse condemnation. This claim against the State of Wyoming is, initially and primarily, an extension of that claim against the State. Claimants intend to amend their current action to include an action for inverse condemnation against the State of Wyoming. Claimants also notify the State of Wyoming that, in the event of failure of the inverse condemnation claims against the State, which would thereby give rise to the ability of claimants to make claims against the State for violation of United States Constitutional and Wyoming Constitutional rights, that such claims will be made.

4. Petitioner/Appellant further states that on November 12, 2009, its counsel submitted a Petition for Review of the directive from Mr. Baron dated October 30, 2009, to the Administrator and Director. A copy of that Petition is attached. On the same date, pursuant to the provisions of Wyoming Statutes,

Section 35-11-1101, SALL submitted a Records Request to the Director, Administrator, and others requesting that the DEQ provide to SALL all “records, reports or information” which formed the basis for the October 30, 2009, directive from Mr. Baron. The Petition for Review was never granted nor denied. No response to that Records Request has been provided. Pursuant to the provisions of Chapter VI, Section 4, Rules and Regulations, Department of Environmental Quality, and based on the November 12, 2009, request that proceedings before the Environmental Quality Council pursuant to the Order of the Director be stayed until: 1) The Department of Environmental Quality responds to the Records Request, and 2) until discovery can be completed that affords Petitioner/Appellant fair opportunity and due process to be informed of the nature of the facts, data and information upon which the departmental action and order are purportedly based, and 3) until the Director conducts an informal proceeding after 1 and 2 are completed.

5. With respect to the Notice of Violation which is the subject of this matter, Petitioner responds as follows:

a. Responding to paragraph 1, SALL acknowledges the information as correct.

b. Responding to paragraph 2, SALL states that it believes the statements to be correct.

c. Responding to paragraph 3, SALL acknowledges the information as correct.

d. Responding to paragraphs 4–7, SALL affirmatively states that the actions of Mr. Joe Sender, as described and otherwise, constituted a grant of the permit; that Mr. Sender, both in writing and orally, as well as through inspection, approved SALL’s application and explicitly or constructively granted the permit; that SALL is not responsible for Mr. Sender’s mistaken failure to sign the document in all places required.

e. Responding to paragraphs 8 and 9 of the Notice, SALL affirmatively states that appropriate representatives of the Town of Alpine acknowledged the application, approved construction, and inspected and approved the designated

septic installation. SALL further affirmatively states that Mr. Mark Baron of the Wyoming Department of Environmental Quality was also aware of and gave explicit/constructive approval of the installation.

f. Responding to paragraph 10, SALL acknowledges the provisions of the statute cited.

g. Responding to paragraph 11, SALL acknowledges the conversation took place but does not admit that the characterization of the conversation is fully accurate; SALL further asserts that the characterization of the conversation is not complete and lacks full context; SALL further contends that if this summary is taken either from notes or a recording of the conversation then such notes or recording would be among the “records, reports or information” which SALL has requested but not received, as described above.

h. Responding to paragraph 12, SALL acknowledges that statements to effect of those attributed to Mr. Kjellgren were made in the letter, asserts that the actual language of the letter would be more appropriate, and specifically denies that the letter or the statement in paragraph 12 that the construction of the septic systems was done without appropriate permission from the Town of Alpine.

i. Responding to paragraph 13, SALL denies that any violation has occurred.

j. Responding to paragraphs 14 and 15, SALL acknowledges the provisions of the statutes cited and denies that there has been any violation nor is there any justification for the imposition of any type of penalty against SALL.

5. SALL further requests that the Environmental Quality Council, pursuant to the provisions of Chapter 2, Sections 9 and 10, issue subpoenas and authorize



depositions for the production of documents and appearance of witnesses as requested in documents filed contemporaneously with this Petition/Appeal.

WHEREFORE, Petitioner requests a hearing on the matters above described and for such relief as is justified under the law.

DATED this 5<sup>th</sup> day of April, 2010.



\_\_\_\_\_  
Gary L. Shockey  
Attorney for Petitioner/Appellant  
Box 10773  
480 S. Cache  
Jackson, WY. 83002  
(307) 733-5974  
(307) 690-8060 (cell)  
[gary@garyshockeylaw.com](mailto:gary@garyshockeylaw.com)

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Petition for Review/Appeal of Order was served upon the following, pursuant to law, via certified mail, return receipt requested [per the Notice/Order]:

Chairman  
Wyoming Environmental Quality Council  
Room 1714  
Herschler Building  
1<sup>st</sup> Floor West  
122 West 25<sup>th</sup> Street  
Cheyenne, WY. 82002

Director  
Wyoming Department of Environmental Quality  
Herschler Building  
4<sup>th</sup> Floor West  
122 West 25<sup>th</sup> St.  
Cheyenne, WY. 82002



BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

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:

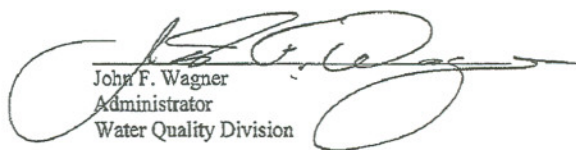
1. No later than June 1, 2010 a permit to construct application, along with plans and specifications, must be submitted to the Wyoming Department of Environmental Quality, Water Quality Division, Southwest District Engineer by a professional engineer licensed in the State of Wyoming.
2. This application 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.

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

  
\_\_\_\_\_  
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

# NELSON ENGINEERING

Professional Engineers, Land Surveyors & Planners

LRK/09-005-02

August 25, 2009

WYDEQ  
Water Quality Division  
122 West 25<sup>th</sup> Street  
Herschler Building, 4<sup>th</sup> Floor-West  
Cheyenne, WY 82001

RECEIVED  
SEP - 1 2009

ATTN: Mr. Lou Harmon, Program Principal

RE: **Notice of Alleged Violation of Certain Wyoming Statutes and DEQ  
Rules and Regulations Regarding Water Quality Considerations  
within the Town of Alpine, Wyoming**

Dear Mr. Harmon:

I represent the Town of Alpine, Wyoming in its defense of a lawsuit filed by The Tavern, LLC and SALL, LLC, disputing the Town's statutory ability to reasonably force abandonment of septic tanks and require connection to a newly installed sewage collection system within the Town limits. The civil action requests a declaration from the court that the actions of the Town are illegal, not authorized by statute or case law, and are null and void as to their effect on the plaintiffs, and seeks certain monetary damages from the Town. The Town believes, and I concur, that it is within its statutory right and obligation to require connection under the requirements of Ordinance 194-2009-50 (attached hereto) and is vigorously defending itself against the civil action.

The newly installed sewage collection system, placed in operation in July, 2009 as shown on the enclosed Town map, runs adjacent to the plaintiff's property (a commercial development consisting of an RV park and bar). The collection system leads to a new sewage treatment facility which was placed in operation in December 2008. Both facilities were constructed with over \$8 million in Mineral Royalty Grants and SRF Loans provided by the State Land and Investment Board.

Because of the civil action filed against it, the Town is forced to defend itself and its actions with all available rigor, and is requesting support from the DEQ in that effort. The Town believes that certain past activities regarding unpermitted modifications to the existing private septic system on the property of The Tavern, LLC occurred beginning on April 6, 2007 and again on July 25, 2008. The modifications are delineated in the enclosed email to Leon Kjellgren from Deb Wolfley, Town Administrator, dated August 24, 2009. In addition to the facts set forth in that email, on April 6, 2007 when the Mayor

was made aware of the imminent installation of a non-permitted septic tank, she personally delivered a copy of the Town's then current ordinance forbidding the installation of new septic tanks and/or leachfields to one of the SALL, LLC principals, Mr. Diggs Lewis, to inform him of the prohibition on installing tanks. Mr. Lewis disregarded the Mayor and the facts show that SALL continued to install its septic tank without obtaining a permit.

Over the past year, the Town has attempted to work with the plaintiffs in hopes that the unpermitted and unauthorized septic modifications would be a mute issue when the new collection system was available. Now that it is available, but with the plaintiff's recent refusal to connect and filing of a civil action, the Town requests the support of the State in investigation of what we believe to be specific past and continuing violations of provisions within the Wyoming Environmental Quality Act as it applies to groundwater quality. In that light, the Town of Alpine alleges the following:

- a. Multiple modifications were made to the existing private septic system on plaintiff's property as described in the August 24, 2009 email in violation of Wyoming Statute 35-11-301 (a portion of the Wyoming Environmental Quality Act) and Chapter 3 of the Wyoming Water Quality Rules & Regulations, the latter of which states in Section 1 that:

"no person, except when permit authorized, shall: construct, install, modify or operate any public water supply, sewerage system, treatment works, disposal system or other facility, excluding uranium mill tailing facilities, capable of causing or contributing to pollution, except that no permit to operate shall be required for any publicly owned or controlled sewerage system, treatment works, disposal system or public water supply."

Section 2 of Chapter 3 also states that, "these regulations shall apply to all public water supplies as defined in Section 3 (a) (iv) of these regulations and to all private, municipal, commercial and industrial (including mining) sewerage systems, treatment works, disposal facilities, biosolids management facilities, treated wastewater systems and other facilities capable of causing or contributing to pollution"

The Town believes that said modifications were made without permit authorization by the State of Wyoming.

- b. The Town's general permitting procedure is covered by State Statute W.S. 35-11-304 which stipulates that to the extent requested, authority to enforce and administer W.S.35-11-301 (a) (iii) and (v) shall be delegated to qualifying municipalities, water and sewer district or counties. Delegation of authority is limited to **small wastewater facilities**, publicly owned or controlled non-discharging treatment works, sewerage systems and public water supply distribution systems.

In this case, the Town's permitting procedure is for its benefit only in order to monitor septic system alternations within its Town limits. The Town has no requirement, or authority, to issue a permit on the SALL property due to its commercial land use status. Section 3 of Chapter 3 (Rules and Regulations) defines **small wastewater systems** as:

"any sewerage system, disposal system or treatment works having simple hydrologic and engineering needs which is intended for wastes originating from a **single residential unit** serving no more than four families or which distributes 2,000 gallons or less of domestic sewerage per day."

This definition of small wastewater system is verbatim with the definition in Section 35-11-103 of the Wyoming Environmental Quality Act. "**Single residential unit**" intuitively does not include "**commercial**." Moreover, the 2,000 gallon per day limit is a qualifier of the parameters for a single residential unit and does not create a separate category for non residential units with less than 2,000 gallons per day. Put another way, a small wastewater system is a single residential unit that serves four or less families or which could serve more than four, so long as the discharge is less than 2,000 gallons per day. Under no reasonable interpretation of this definition is a commercial use encompassed.

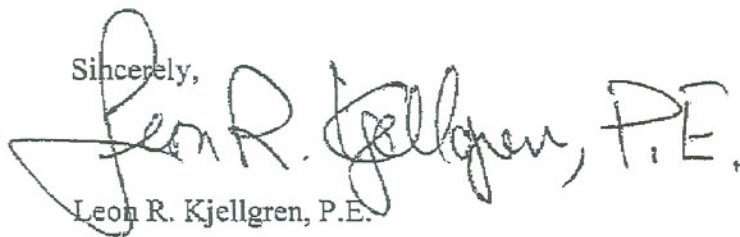
- c. Moreover, in addition to not meeting the definition of a single residential unit, thus excluding this property from being deemed a small wastewater system, extenuating circumstances are present on the SALL property which do not allow it to fit into the category of "simple engineering needs." First, inherent in any RV Park is the strong possibility, if not probability, that RV waste containing formaldehyde, or another additive, is present, which by design serves to inhibit anaerobic bacterial growth. Consequently, waste decomposition in a septic tank does not occur to the extent that it would without the additive. Secondly, the subsoil structure throughout the majority of the lower bench of Alpine is well known to consist of coarse gravelly material with high percolation rates, in some cases exceeding the maximum allowable for standard leach field installation. Thirdly, with the bar and the RV Park at full occupancy, it may mean that total sewerage generation exceeds 2000 gpd, thereby requiring coverage under Chapter 16-Class V Injection Wells and Facilities of the Rules and Regulations. These three circumstances combined serve to potentially exacerbate effluent quality from the existing SALL private disposal system.

In conclusion, the Town of Alpine requests that the State conduct an investigation of possible water quality violations on or within the SALL property. If substantiated, the Town requests that the State enforce applicable provisions of existing statutes and its policy rules and regulations.

Please understand that although the Town's ultimate objective is to force connection to the public collection system, the Town does not expect the State to engage in direct defense of its sewer connection ordinance. The Town does request, however, that the state enforce its existing statutes, and rules and regulations, in order to assure that the "status quo" scenario is understood to be unacceptable. As you can see from the enclosed ordinance, the Town has its own built-in penalty provisions. The SALL suit, however, in addition to other remedies, seeks injunctive relief preventing the Town from enforcing its ordinance and its built-in penalty provisions. Irrespective of the outcome of that pleading, DEQ's responsibility for enforcing State Statute as well as its own rules and regulations cannot be abdicated. Consequently, we are requesting that DEQ investigate any potential violations and if violations are found, that DEQ issue a notice of violation and ensure compliance with its rules and regulations, by ordering this business to connect to the Town sewer system (which we believe is really the only valid outcome should a violation be found) and/or ordering other action as DEQ deems necessary such as fines and supplemental environmental protections.

Thank you in advance for your support in this matter. If you have any questions or require additional information, please do not hesitate to contact either myself, or Deb Wolfley, Alpine Town Administrator.

Sincerely,



Leon R. Kjellgren, P.E.

LRK/dks

Enc.

p.c.: Town of Alpine  
Stefan Fodor, Town Attorney



194 – ORDINANCE NO. 2009-50

**AN ORDINANCE TO REPEAL AND REPLACE 193 ORDINANCE No. 2009 49, 185 ORDINANCE NO. 2008-41, 178 ORDINANCE NO. 2008-34, 150-ORDINANCE NO. 2007-06 and 107-ORDINANCE NO. 2004-04 ESTABLISHING SEWER CONNECTION REQUIREMENTS.**

Be it ordained by the governing body of the Town of Alpine that the following shall regulate sewer connection fees, usage rates, billing and collection in the Town of Alpine, Wyoming.

**Section I: Severability.**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

**Section II: Effective Date of this Ordinance.**

This ordinance will be effective as of its third and final reading.

**Section III: Connection Requirements**

- A. Sewer hook-up (connection) fees and monthly user fees shall be assessed on an ERU (Equivalent Residential Unit) basis. An ERU is calculated as 250 gallons per day Average Daily Flow. Average Daily Flow values are to be multiplied by a factor of 1.5 to obtain Max Daily Flow Values. The Town is expected to provide sewage service under Max Daily Flow conditions, not merely Average Daily Flow.
- B. A minimum of one (1) ERU shall be allocable to each connection. Each building shall have a minimum of one connection. Mixed use, commercial and residential lots shall have a minimum of one (1) ERU allocated to each use. R1 zoned home occupations are exempt from the preceding requirement and shall be charged one (1) ERU as the home occupation is incidental to the residential use. Separate ownership interests on a property such as condominiums shall be charged one (1) ERU per interest.

**C. ERU DETERMINATION**

On a going forward basis for commercial users, connection fees for new connections to the Town collection system and monthly user fees for new and existing connections, based on ERUs, will be determined after two years of water data are available. For new connections to the Town collection system, a deposit for the connection fee will be required to be paid to the Town, in advance, based information the Town can gather and the landowner can provide about an existing or proposed business. Such connection fee will be agreed upon between the Town Council and the Landowner. The user fee will initially be based on the ERU allocation for which the deposit is paid and will be due monthly. After two years of water usage has been accumulated, actual use shall determine the ERU connection fee allocation and monthly user fee allocation and any excess or deficiency from previous amounts paid will be adjusted and the landowner shall either pay the deficiency or be refunded the excess payments for both connection fee and user fees. Thereafter, the connection fee shall be fixed and the monthly

user fees shall be adjusted according to that newly arrived at ERU allocation based on actual water usage.

- D. The Town of Alpine reserves the right to adjust assigned ERUs to any customer, or groups of customers where sewage contribution exceeds 250 gpd (average daily flow) per previously assigned ERU, based on either measured water usage or measured delivered sewage.
- E. The ERU allocations assume sewage contribution having a concentration of less than 300 mg/l of BOD5, COD or TSS. Sewage contribution having a higher concentration, if acceptable by the Town of Alpine, will be subject to a concentration surcharge determined by the Town.
- F. Monthly user fees for expansions or remodels on an existing service shall be based on the new use.
- G. Beginning at the effective date of this ordinance no permanent septic tank/leachfield permits shall be issued to existing or new facilities within the confines of the existing collection system or the Phase I Sanitary Sewer Collection System Expansion Project Area. The Phase I Sanitary Sewer Expansion Project Area ("Phase 1") is shown on Exhibit B attached hereto, and incorporated by reference herein.
- H. Pre-existing Septic Systems Within the existing collection system and Phase I that are 15 years or older.
  - 1. A sewer connection shall be installed and the existing septic tank/leachfield shall be properly abandoned within one hundred and eighty (180) days of the date that the Expanded Sewer Collection System is available to accept waste for those users within the Phase I Sanitary Sewer Expansion Project Area (the "Effective Date").
  - 2. On or about May 1, 2009, all lot owners of land within Phase I and those owners on the existing collection system with pre-existing septic systems who are not connected were sent a courtesy notice via registered mail, return receipt requested from the Town to their address of record as to the Effective Date, as well as a reminder of the connection fee increase, and the status of their lot regarding a mandatory connection to the new system as required under 170 Ordinance No. 2008-26. Should a lot owner refuse the registered mail, the Town shall attempt a hand delivery of the letter to the lot in question. Failure to receive or accept any such notice prescribed by this ordinance shall not be a defense to the requirements of this ordinance.
  - 3. Properties under this section shall begin to pay a readiness to serve fee per ERU as of the Effective Date.
  - 4. The readiness to serve fee shall be equal to the base monthly sewer charge per ERU.
- I. Pre-existing septic systems within the existing collection system and Phase I without valid septic tank/leach field permits.

1. On or about May 1, 2009, lot owners with existing structures within the existing collection system and Phase I without valid septic tank/leach field permits were sent a registered, return receipt requested letter from the Town instructing that lot owner to hookup to the new system within one hundred and eighty (180) days of the mailing of the letter or the Effective Date, whichever is later.
  2. Properties under this section shall begin to pay a readiness to serve fee per ERU as of the Effective Date.
  3. The readiness to serve fee shall be equal to the base monthly sewer charge per ERU.
- J. Pre-existing Septic Systems Within the existing collection system and Phase I that are less than 15 years old.
1. Beginning in calendar year 2010 and continuing every year thereafter, lot owners with existing structures within the existing collection system and the Phase I Sanitary Sewer Expansion Area whose valid septic tank/leach field permits indicate a system age of fifteen (15) years or more during that respective calendar year shall be sent a registered, return receipt requested letter from the Town, instructing that lot owner to hookup to the new system within one hundred and eighty (180) days of the mailing of the letter or by the 15<sup>th</sup> anniversary of that septic tank/leach field's installation, whichever is later. The letter shall be postmarked on or about May 1 of the respective year to enable connection during the summer months.
  2. Properties under this subsection shall begin to pay a readiness to serve fee per ERU as of the date their system reaches the age of fifteen (15) years of age.
  3. The readiness to serve fee shall be equal to the base monthly sewer charge per ERU.
- K. New Construction in areas currently serviced by the existing collection system and the Phase I Sanitary Sewer Expansion Project Area.
1. A sewer connection will be made available after the building application process has been completed, all sewer hookup fees have been paid in full and a building permit issued. Sewer hookup fees shall be assessed on an ERU basis as set forth in Section III(A-E).
  2. A sewer connection must be utilized within two years from the date on which fees are paid. In the event that the sewer connection has not been made, placed in operation and utilized within two years, the applicant will be assessed a monthly readiness-to-serve fee, per ERU, equal to the current monthly sewer use fee charged all Town residents for those ERUs originally assessed. Failure to pay any applicable readiness-to-serve fee will be cause for revocation of the original building permit. Those ERU connection fees will be forfeited and no refunds for any previously paid readiness-to-serve fees or sewer hookup fees will be provided.
  3. Occupancy of newly constructed structures shall not occur until the Effective Date.
- L. Pre Existing Septic Systems that fail to operate properly

1. Any lot owner with an existing structure on the existing collection system or in Phase 1 who has a septic system/leachfield that fails to operate effectively shall be required to properly abandon that septic system/leachfield and connect to the collection system by June 15 one of that year. If the failure occurs after June 15 but prior to November 1, the connection must be made by November 15 of that year. If the failure occurs after November 1, the connection shall be made by June 15 of the following year.

#### SECTION IV FEES

##### New Connection Fee \$7,500

###### 1. New Connection Fee

As of July 31, 2009 a sewer connection fee shall be \$7,500 per single equivalent residential unit (ERU) for those lots within the existing collection system and Phase 1 and those lots outside Phase 1 which are connecting to Phase 1 voluntarily. The cost of connection for non-residential users will be calculated as multiples of ERUs with a minimum purchase of one ERU, and shall be calculated in accordance with section III(A-E).

###### 2. Prepay

Any lot owner in the area served by the current collection system or in Phase I and those lots outside of Phase 1 who are connecting to Phase 1 voluntarily may prepay their sewer connection fee(s) prior to July 31, 2009, and pay the current fee of five thousand dollars (\$5,000) per ERU.

###### 3. Rebates

Any lot owner in the area served by the current collection system or in Phase I, and those lots outside of Phase 1 who are connecting to Phase 1 voluntarily, with an existing septic tank, are eligible and may apply for a partial rebate on their connection fee, per ERU. Such rebate is provided to recognize the owner's prior investment in their existing septic system. In order to qualify for a rebate, the owner must submit a signed application to the Town Clerk on, or prior to, July 31, 2009.

3.1 Owners of lots with septic systems older than 15 years, or those whose lots for whom no final record of inspection is available shall be entitled to receive a rebate of \$2,000 per ERU.

3.2 Owners of lots with septic systems less than 15 years shall be entitled to receive a rebate of \$3,000 per ERU.

3.3 In order to obtain such rebates, owners of lots must begin paying the monthly readiness to serve fee beginning on August 1, 2009. Payment of such readiness to serve fee shall continue until actual connection to the Town sewer is made.

3.4 Any property owner on the current collection system, or in Phase 1, and those lots outside of Phase I who are connecting voluntarily, who take advantage of the rebate shall properly abandon the existing septic tank/leachfield and connect to the collection system within three years of July 31, 2009.

3.5 Eligible property owners who take advantage of the rebate must begin to pay readiness to serve fees as of August 1, 2009.

3.6 Should a user not connect to the sewer sanitation system within the times prescribed by this

ordinance, and/or fail to pay readiness to serve fees within the times prescribed by this ordinance, water service will be shut off in accordance with Section VI of this ordinance and they shall be subject to such penalties described in 170-Ordinance No. 2008-26 and shall forfeit the rebate offered and be required to pay the then current connection fee when they actually connect to the sewer system with an offset of amounts paid prior.

3.8 New construction will not be eligible for rebates.

#### 4 Amortization of Connection Fees

Any landowner within the Existing Collection System and Phase I, and those outside of Phase 1 who connect voluntarily, whose sewage waste is currently treated by a private septic system may elect to amortize their connection fee and pay that fee over time, subject to the following conditions:

- a) Declaration to use the amortization plan must be made by the lot owner by July 31, 2009 (with amortization payments beginning the month thereafter);
- b) Connection to the sewer system must be completed by the relevant dates prescribed above;
- c) Each landowner seeking amortization must sign a contract in the form of Exhibit C attached hereto and incorporated herein by reference, and as it may be amended from time to time, agreeing to pay the required amounts;
- d) Payment shall be over twenty (20) years at a rate of two and one half (2.5) percent per annum payable on monthly installments as prescribed in the form of amortization table attached as an exhibit to Exhibit C;
- e) The contract must also provide that the landowner agrees to a lien being placed on their property for the full amount financed;
- f) The contract must also contain an acknowledgement that the landowner agrees that the Town can shut off their water if the landowner is in default of payment of their sewer fees after a sufficient notice of default and opportunity to cure.

#### 5 Discounts for Eligible Senior and Disabled Citizens

The connection fee for senior citizens aged sixty-five (65) or over who certify to the Town that they are the owner and primary resident of the residence, that Alpine is their primary residence, as evidenced by voting records or tax returns and that their net annual income (as verified by tax returns for the prior year) does not exceed one hundred and fifty percent (150%) of the Lincoln County poverty level and disabled citizens who certify that they are permanently disabled (as verified by a determination of disability by the State of Wyoming or another state or Federal Agency), that they are the owner and primary resident of the residence, that Alpine is their primary residence, as evidenced by voting records or tax returns, and that their net annual income (as verified by tax returns for the prior year) does not exceed one hundred and fifty percent (150%) of the Lincoln County poverty shall have their connection fee reduced by fifty (50) percent. Owners qualifying under this section may also be eligible for rebates as set forth above and have their connection fees amortized as set forth above.

##### 5.1 Discounts for Social Service Organizations

There shall be no connection fee for the Social Service Organizations listed below and the monthly user fee shall be reduced by fifty (50) percent.

- A Alpine Library
- B Child Development Center
- C Alpine Civic Center

Other social service organizations may petition the Town Council for a reduction in connection and monthly use fees and a reduction may be granted only upon a showing of a social benefit to the Town of Alpine and a governmental link or sponsorship.

**6 Refunds of Prepaid Connection fees**

Any landowner who prepaid connection fees under 178 Ordinance 2008-34 may elect to have their fees refunded in part as follows:

- A. If eligible for a rebate, such landowner may be refunded the amount of the rebate they are eligible for;
- B. If eligible for amortization, such landowner may be refunded the connection fee subject to meeting the requirements of Section IV(4);
- C. The provisions of this subsection 6 shall not be mutually exclusive.

**7. Fee increases in connection and user fees are anticipated to be as follows:**

**a. Connection fees.**

- 1. FY 2015 \$8,600/ERU
- 2. FY 2020 \$10,000/ERU
- 3. FY 2025 \$11,600/ERU

**b. Monthly User Fees**

- 1. FY 2010 \$36/ERU
- 2. FY 2014 \$41.70/ERU
- 3. FY 2019 \$48.30/ERU
- 4. FY 2025 \$54.1/ERU

**Section V: Town Supervision of Connections to the Sewer Collection System**

- A. The Town of Alpine shall be notified at least twenty-four (24) hours in advance of any excavation relating to a connection to the Town's collection system.
- B. Maintenance of the entire service line from the house to Town Right of Way is the sole responsibility of the property owner. Town sewer maintenance responsibility is limited to the street main line and extending to the end of the Right of Way.
- C. The connection provided by the Town will include tap, saddle (if needed) and the pipe to the property line. The property owner will then be responsible for actual hook up to home/business. Any and all extra services and or parts while connecting to sewer will be at the owner's expense (labor, sand, gravel, backhoe use).
- D. Pursuant to the timetables set forth above:

Lot owners shall be responsible for connecting their property to the Town Sewer Collection System and shall follow the requirements below.

1. Sewer service piping shall be PVC Schedule 40 or PVC ASTM 3034 SDR 35 with a minimum diameter of 4 inches.
2. All joints shall be gasketed.
3. The slope shall be uniform and not less than one-fourth (1/4) inch per foot or two percent (2%) unless otherwise prior approved in writing by the Town Engineer.
4. Sewer service piping shall be bedded with granular material with a maximum particle size not greater than one inch (1").
5. Bedding material shall be free of cinders, ashes, wood, vegetation, frozen or other deleterious materials.
6. Service lines can only service one building/residence, unless an approved variance is provided by the Town of Alpine upon a showing for good cause prior to connection to the Collection System.
7. Roof downspouts, interior and exterior foundation drains, sump pumps discharging unpolluted water or other sources of surface runoff or groundwater cannot be connected to the sewer system.
8. Cleanouts shall be placed inside the building near the connection between the building drain and building sewer or installed outside the building at the lower end of the building drain and extended to grade. Additional cleanouts shall be installed at intervals not to exceed one hundred (100) feet in straight runs and for each change in direction greater than forty-five (45) degrees unless within forty (40) feet of building cleanout. Where more than one change in direction occurs in a run of piping, only one cleanout shall be required for each forty (40) feet of length.
9. If a connection is made using a coupling, it shall be a steel sleeve reinforced "Fernco" type coupling. Coupling installation shall be observed by the Town Representative.
10. Where users have a plumbing fixture(s) below the elevation of the manhole cover of the next upstream manhole, the user shall install a backflow prevention device on the service line serving said fixture(s) and shall be responsible for maintaining that device.
11. The installer shall contact One Call of Wyoming (811) and the Town of Alpine prior to any excavation. The installer shall be responsible to locate and preserve all existing utilities, and will be responsible for any damage.
12. No physical connection to the service stub can be made until the Town's representative is present to witness testing (as described below) and supervise the connection process. In order to facilitate testing a ten (10) foot minimum separation between the town service stub and the landowner's sewer line as well as a ten (10) foot minimum separation between the landowner's sewer line and the building shall be required until testing is complete.

#### E. Testing

A water test shall be performed under the town representative's supervision to insure that the land owner's service line is watertight. The Town shall have available a four inch (4") pneumatic plug and a four inch (4") gasketed elbow and ten foot (10') length of four inch (4") PVC pipe to facilitate the testing. The plug will be placed on the end of the service line nearest the street. The elbow and pipe length will be placed vertically on the end nearest the building and a garden hose will be used to fill the section of pipe to the top of the vertical pvc pipe attached to the service line. The water level will then be marked and observed for a period of time determined by the Town's representative in order to check for leaks in the service line.

Once the Town Representative determines that there are no leaks in the service line, the service line may be tied into the building and then tied into the sewer stub.

All sections of sewer pipe shall be flushed with water to clear out all dirt and debris from the service line prior to connection to the service stub.

- F. No tie ins to the sewer stub may be made without the Town representative being present. Anyone tying into the service stub without Town supervision will be fined in accordance with 170 Ordinance 2008-26 and the connection will have to be dug up and checked by the Town representative at the owner's expense. The landowner will be held strictly liable for any damage to the sewer system resulting from any failures to observe this ordinance.

An application form will be provided to the homeowner setting out these requirements when the homeowner comes into pay his/her connection fee.

#### G. Abandonment of Existing Septic Tanks

It shall be the responsibility of the property owner to properly abandon existing septic tanks within thirty (30) days of the time connection is made to the Town sewer collection system. Abandonment shall be in accordance with the following requirements:

- a. Disconnection of the inlet and outlet piping to the existing tank;
- b. Pumping of the liquid and solid septage by licensed septic tank pumper with approved disposal pursuant to DEQ regulations;
- c. Break tank lid, pieces may be dropped into tank or disposed of in a landfill;
- d. Filling of the septic tank with pit run, pea gravel, drain rock, sand or native soil; or
- e. Physically destroying and crushing the septic tank or removing the septic tank from the ground and disposing of it in a landfill and backfilling the hole.
- f. Property owners must have the abandonment of their tank inspected by the Town. Failure to do so could result in the landowner having to dig up their property at their expense to prove compliance with this section of the ordinance and the costs of such enforcement shall be passed on to the property owner.

- H. Ordinance 170 – ORDINANCE NO. 2008-26 provides any and all other requirements, penalties, definitions, prohibitions to the Town of Alpine Sewer System and Treatment Plant.

#### Section VI: Billing and Collection Policy.

1 Billing for sewer service will be for the first full month after connection to the Town Sewer and shall be billed monthly thereafter and shall be subject to the penalties below.

2 Billing for readiness to serve fees shall be in accordance with the requirements set forth above and subject to the penalties below and shall be billed monthly thereafter.

3 Bills will be mailed to all customers no later than the fifth (5<sup>th</sup>) day of the following month. Payment will be due on the fifteenth (15<sup>th</sup>) of the month the bill is sent out. Payments received after the twenty – fifth (25<sup>th</sup>) day of that month will be assessed a five dollar late charge. At the next billing cycle,



delinquent accounts will be sent a delinquency notice. If amounts are not paid by sixty (60) days from when first due, water will be disconnected with a notice provided ten (10) days prior to disconnection.

3.1 When service is disconnected pursuant to a disconnect notice for failure to pay amounts due on an account, service will be reinstated upon request by the property owner and payment of all past due amounts and late charges accrued, plus a thirty dollar (\$30) connection fee, plus payment for the months the service was disconnected as the bills represent not only use, but infrastructure costs.

4 The Town of Alpine will not disconnect water service for a delinquency in payment of fees for a residence between December 1 of one year and April 1 of the next year. Businesses will be disconnected from water service for a delinquency in payment of fees irrespective of the time of year.

4.1 Customers with special medical conditions may receive a special status known as "No Disconnect". To qualify for this special feature, the customer must provide the Town with a statement from their Doctor stating a medical reason that would require unconditional water service. Qualification for this exemption does not mean that you do not need to pay your water bill!

5 A service fee of thirty dollars (\$30.00) will be charged for any and all returned checks. This fee will be added to the users account or as determined by the Treasurer.

#### **Section VII: Transfer Fee.**

Where existing service is in place no transfer fee will be required, though an application for sewer/water service will be required along with a deed to the property showing current ownership of the property.

#### **Section VIII: Refunds / Waiver of Fees.**

**Subject to Section III(C) and IV(6) above all fees are non-refundable. There will be NO waiver of fees except as provided in Section IV (5 & 5.1). If a sewer connection is not made within the above stated mandatory time period and the applicant re-applies for a sewer connection fee on that same lot, the amounts already paid shall be applied to the new fee in place at the time of the reapplication.**

#### **Section IX: Additional Fees.**

If any of the above fees do not fully cover the total costs of processing any application and or sewer hook-up additional fees may be assessed on a case by case basis.

#### **Section X: Exemptions from Connection Criteria**

The above connection criteria shall not apply to properties with a demonstrated need (to the satisfaction of the Town Engineer) for a pump lift station as a result of an inability to connect to the sewer main line in Town Right of Way at minimum slope required by then current IPC. Those properties that fall under this section shall still be required to pay the connection fees and readiness to serve fees as otherwise required in this ordinance. Said properties shall connect to the sanitary sewer system within ten (10) years of the passing of this ordinance or once their septic system fails whichever occurs sooner. The exemption period allowed in this section shall survive the sale or transfer of the property. Those properties qualifying under this section may still avail themselves to the rebate and amortization sections of this Ordinance.

**Section XI: Connections Available for Lots Outside of Phase I**

Any landowner not in Phase I may connect to the sanitary sewer system and take advantage of the above rebates and amortization and shall also be subject to the above time connection requirements. Such connection shall be at their own expense, subject to their service line meeting the above requirements. Any sewer service line serving more than one building shall necessitate the owner(s) obtaining a DEQ Permit To Construct and obtaining the consent of the Town subject to Town Engineer review.

**Section XII: This ordinance passed and approved on the following dates:**

Passed on first reading this 25th day of June, 2009.

Vote: 4 yes 0 no 0 abstain 1 absent

Passed on second reading this 7<sup>th</sup> day of July, 2009.

Vote: 4 yes 1 no 0 abstain 0 absent

Passed on third reading this 21st day of July, 2009.

Vote: 5 yes 0 no 0 abstain 0 absent



SIGNED: Victoria Decora  
VICTORIA DECORA, MAYOR

ATTEST: [Signature]  
BRENDA BENNETT, CLERK

**ATTESTATION OF THE TOWN CLERK**

STATE OF WYOMING            )  
COUNTY OF LINCOLN        )  
TOWN OF ALPINE            )

I hereby certify that the forgoing 193 Ordinance No. 2009-49 shall be duly posted for ten (10) days in the Town Clerk's Office.

I further certify that the foregoing Ordinance will be published at least once in the Star Valley Independent as soon as is practicable.

I further certify that the forgoing Ordinance was duly recorded in the BOOK OF ORDINANCES IV, TOWN OF ALPINE, LINCOLN COUNTY, WYOMING.