

**FILED**

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
OF THE STATE OF WYOMING      MAY 10 2010**

IN THE MATTER OF THE NOTICE OF )  
VIOLATION ISSUED TO: )  
 )  
 ) DEQ Docket No. 4626-10  
 ) EQC Docket No. 10-3212A  
SALL Enterprises, LLC )  
P.O. Box 3189 )  
Alpine, WY 83128 )

**Jim Ruby, Executive Secretary  
Environmental Quality Council**

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**RESPONSE OF THE DEPARTMENT OF ENVIRONMENTAL  
QUALITY/WATER QUALITY DIVISION**

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The Department of Environmental Quality (“DEQ”)/Water Quality Division (“WQD”) by and through its attorney, John S. Burbridge, Senior Assistant Attorney General, hereby responds to SALL Enterprises, LLC’s (SALL) Petition for Review/Appeal of Order/Request for Hearing (“Appeal”) of the DEQ/WQD Notice of Violation and Order (“NOV”) issued on March 19, 2010, and states to the Environmental Quality Council (“EQC”) the following:

1. The DEQ admits the allegations contained in ¶ 1 of SALL’s Appeal.
2. The DEQ admits the allegations contained in ¶ 2 of SALL’s Appeal.
- 3(a). The DEQ/WQD states that SALL’s claim against the Town of Alpine as set forth in ¶ 3(a) is not relevant to the above captioned matter currently before the EQC. The DEQ/WQD denies ¶ 3(a) to the extent a response is required.

3(b). The DEQ/WQD is without sufficient knowledge to be able to admit or deny the allegation contained in the first paragraph of ¶ 3(b) of SALL's Appeal. With regard to the second paragraph of ¶ 3(b), the DEQ/WQD states that SALL's claim against the Town of Alpine is not relevant to the above captioned matter currently before the EQC. The DEQ/WQD denies any portion of ¶ 3(b) to the extent a response is required.

3(b)(1). The DEQ/WQD is without sufficient knowledge to be able to admit or deny the allegation in ¶ 3(b)(1) of SALL's Appeal.

3(b)(2). The DEQ/WQD states that SALL's allegation in ¶ 3(b)(2) of its Appeal is not relevant to the above captioned matter that is currently before the EQC. The DEQ/WQD denies any portion of ¶ 3(b)(2) to the extent a response is required.

3(b)(3). The DEQ/WQD is without sufficient knowledge to be able to admit or deny the allegation contained in the first sentence of ¶ 3(b)(3) of SALL's Appeal. The DEQ/WQD denies the remainder of the allegations contained in ¶ 3(b)(3) of SALL's Appeal.

3(b)(4). The DEQ/WQD denies the allegations contained in ¶ 3(b)(4) of SALL's Appeal.

3(b)(5). The DEQ/WQD denies the allegations contained in ¶ 3(b)(5) of SALL's Appeal.

3(b)(6). The DEQ/WQD denies the allegations contained in ¶ 3(b)(6) of SALL's Appeal.

3(b)(7). The DEQ/WQD denies the allegations contained in ¶ 3(b)(7) of SALL's Appeal.

3(b)(8). The DEQ/WQD is without sufficient knowledge to be able to admit or deny the allegations contained in ¶ 3(b)(8) of SALL's Appeal. The DEQ/WQD denies any portion of ¶ 3(b)(8) to the extent a response is required.

4. The DEQ/WQD admit that SALL's November 12, 2009, Petition for Review to the Administrator and Director was neither granted nor denied. The DEQ/WQD denies that a response to SALL's records request dated November 12, 2009, was not provided. The DEQ/WQD affirmatively states that a Petition for Review to the Administrator and Director is not available in an appeal of an NOV alleging a failure to permit a septic sewage system prior to its construction and/or modification. *See* WYO. STAT. ANN. § 35-11-902 (West 2009), (limiting informal review to violations of the provisions of the Environmental Quality Act to surface coal mining operations).

5. Paragraph 5, including all discrete subparts purport to respond to the specific allegations of the NOV. The DEQ/WQD reaffirms the contents of the NOV, denies that SALL answer to the NOV requires a response, and to the extent ¶¶ 5(a)-(j) contain additional allegations, those allegations are denied.

6. The DEQ denies each and every allegation not specifically admitted in this response.

#### **AFFIRMATIVE DEFENSES**

1. Petitioner has failed to state a claim upon which relief can be granted.

2. The DEQ/WQD reserves the right to name additional affirmative defenses as they become known during the course of discovery.

WHEREFORE, the DEQ prays that the EQC enter an ORDER affirming the NOV and Order issued by the Department of Environmental Quality/Water Quality Division on March 19, 2010.

DATED this 10<sup>th</sup> day of May, 2010.

FOR THE DEPARTMENT OF  
ENVIRONMENTAL QUALITY

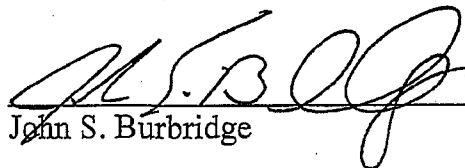


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#### CERTIFICATE OF SERVICE

I, John S. Burbridge, certify that the foregoing Response was served by US. Mail, postage prepaid, and addressed correctly, to the following on the 10<sup>th</sup> day of May, 2010:

Gary L. Shockey  
PO Box 10773  
480 South Cache  
Jackson, Wyoming 83002



John S. Burbridge