

OCT 13 2010

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF THE ISSUANCE OF)
DEQ PERMIT 10-254R ISSUED) EQC Docket No. 10-3801
TO SALL ENTERPRISES LLC)
)

DEQ’S RESPONSE TO THE TOWN OF ALPINE’S PETITION

Respondent Wyoming Department of Environmental Quality (DEQ), pursuant to the Wyoming Environmental Quality Council’s (EQC) September 14, 2010 Response Order, responds as follows to the Town of Alpine’s (Alpine) September 9, 2010 Petition in Protest and Appeal of Issuance of DEQ Permit and Request for Hearing (Alpine’s Petition) contesting the issuance of permit 10-254R to SALL Enterprises, LLC.

1. Chapter I, Section 3(c)(iii) of the EQC Rules of Practice and Procedure (Rules) states that petitions for hearings shall set forth in ordinary, but concise, language the facts on which the request or protest is based, including whenever possible, particular reference to the statutes, rules or orders that the petitioner alleges have been violated.

2. Alpine’s Petition is four (4) pages of un-numbered paragraphs that contain a mixture of factual allegations, opinions and legal arguments. As such, DEQ will respond to Alpine’s general allegations the best it can.

3. DEQ admits that it issued a Notice of Violation and Order (NOV) No. 4626-10 to SALL Enterprises, LLC (SALL) which directed SALL to file a permit to construct application with DEQ, which SALL then appealed to the EQC. DEQ also admits that DEQ issued permit 10-254R (Permit) to SALL on July 6, 2010.

4. DEQ denies that the Permit was improperly issued and is without information or knowledge sufficient to form a belief as to the truth of the statement that the water usage data was “selective and incomplete.”

5. DEQ admits that SALL submitted water usage data for the period from December 1, 2009 through May 1, 2010. DEQ, however, is without information or knowledge sufficient to form a belief as to the truth of Alpine’s statements regarding “data submitted” by Alpine. Alpine did not identify or attach the data to which it was referring. DEQ is aware of data submitted by Alpine in a previous case in front of the EQC, however, without a better description or specific references to data, DEQ must deny any allegations regarding what the “data” may show.

6. DEQ admits that a small wastewater system is defined in Section 35-11-103(c)(ix) of the Environmental Quality Act but denies the remaining allegations regarding Alpine’s interpretation of the definition of a small wastewater system.

7. DEQ admits that SALL submitted a letter dated June 17, 2010 to DEQ but is without information or knowledge sufficient to form a belief as to the

truth of the statement regarding what the “water data shows.” Alpine did not identify or attach the data to which it refers. DEQ is aware of data submitted by Alpine in a previous case in front of the EQC, however, without a better description or specific references to data, DEQ must deny any allegations regarding what the “data” may show.

8. DEQ denies Alpine’s allegation that DEQ relied on “inadequate and incomplete” data. DEQ also denies Alpine’s allegation that DEQ ignored water demand data.

9. DEQ admits that SALL submitted water usage data for the period from December 1, 2009 through May 1, 2010, but denies Alpine’s remaining allegations regarding DEQ ignoring data from other months. DEQ is without information or knowledge sufficient to form a belief as to the truth of the statement regarding what “water demand data for the SALL property shows.” Alpine did not identify or attach the data to which it refers. DEQ is aware of data submitted by Alpine in a previous case in front of the EQC, however, without a better description or specific references to data, DEQ must deny any allegations regarding what the “data” may show.

10. DEQ is without information or knowledge sufficient to form a belief as to the truth of the statement regarding Alpine’s assumptions regarding water usage on the SALL property, and therefore, denies the allegations.

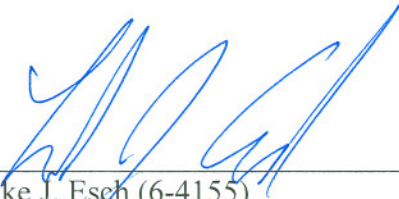
11. DEQ admits that Mr. Ablondi’s June 17, 2010 memorandum states “the leachfield would have a loading rate capacity of about 1190 gpd based upon

the Chapter XI standards.” DEQ also admits that the June 17, 2010 memorandum also references two septic tanks that discharge into the SALL leachfield. DEQ, however, is without information or knowledge sufficient to form a belief as to the truth of the statement regarding Alpine’s assumptions regarding water usage on the SALL property, and therefore, denies the remaining allegations in the last paragraph on page three.

12. Alpine’s final averment is a request for a hearing which does not require responsive pleading.

13. As stated above, DEQ responded to the allegations contained in Alpine’s un-numbered paragraphs to the best of its abilities, to the extent there were allegations that were not specifically addressed above, DEQ denies them.

DATED, this 13th day of October, 2010.



Luke J. Esch (6-4155)
Attorney General’s Office
123 Capitol Building
Cheyenne, WY 82002
(307) 777-6946

CERTIFICATE OF SERVICE

This certifies that true and correct copies of the foregoing DEQ's RESPONSE TO THE TOWN OF ALPINE'S PETITION were served this 13th day of October, 2010 by United States mail and/or by email addressed as follows:

Gary L. Shockey,
Gary L. Shockey, P.C.
PO Box 10773
Jackson, WY 83002
Counsel for SALL
garyshockey@msn.com

Leah K. Corrigan,
Lubing & Corrigan, LLC
P.O. Box 3894
Jackson, WY 83001
Counsel for the Town of Alpine
leah@lubinglawoffice.com

