

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

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

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**SALL’S RESPONSE TO TOWN OF ALPINE’S MOTION TO QUASH AND  
FOR PROTECTIVE ORDER**

SALL, through counsel, submits the following Response to the Town’s Motion to Quash and for a Protective Order:

I. The Motion is Premature

The Town’s motion ASSUMES that counsel for SALL would ask questions outside the boundaries of issues relevant to the permit in this case. Those questions have not, and would not, be asked.

II. Exemplary Relevant Inquiry

There are relevant areas of inquiry with respect to the permit in question. For example, with respect to the leach field in question, Interdepartmental documentation from the Town of Alpine’s inspector, Jody Tibbets, indicated that Mr. Tibbets noted, on July 31, 2008, that “Inspected leach field overbuilt by 150 sq. ft. Good to go. JT.” A copy of these notes is attached.

This is a clear indication that the Town’s inspector, acting under a delegation agreement by the DEQ to the Town, found that the leach field which the Town now challenges, was not only adequate as built, but actually more than required.

Added to this, the Mayor, Victoria DeCora, and the Town Administrator, Mr. Deb Wolfley, both signed a permit for the leach field on August 12, 2008. The Town tried to designate the permit as “temporary,” which the DEQ and/or its

“delegates” like the Town of Alpine do not have the authority to do. A copy of that permit is attached.

SALL, therefore, has a distinct interest in making full inquiry of Mr. Tibbets, Ms. DeCora, Mr. Wolfley, and other town officials about their own findings that the leach field “exceeded” its requirements and was good enough, at least, for a “temporary” permit – as well as the Town’s purported authority to issue a “temporary” permit – and all facts surrounding these issues.

It appears that the reason the Town tried to designate the permit as temporary was to force SALL onto its new sewer system. This would have cost SALL so much as to render SALL’s business economically non-viable. This is also the apparent reason that the Town of Alpine continues in its ill-founded efforts to have the permit, now approved and issued by the DEQ after the Town filed a complaint, declared invalid.

### III. The Lincoln County District Court Action

The Town of Alpine suggests allowing these depositions would somehow interfere with Judge Sanderson’s management of litigation in his Court. Judge Sanderson has had a motion for protective order pending and awaiting his decision. However, that action has its own timetable and its own issues and the permit challenge before the EQC should not be affected by the process in that litigation.

### IV. Conclusion

The depositions of the Town Officials should go forward. There are areas of relevant inquiry concerning the facts related to the leach field in question, as illustrated above.

DATED this 14<sup>th</sup> day of October, 2010.

/s/ \_\_\_\_\_  
Gary L. Shockey

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Response was served, via email and U.S. Mail, on the 14<sup>th</sup> day of October, to Mr. Luke Esch, Mr. James Lubing, and Ms. Leah Corrigan.

/s/ \_\_\_\_\_