



Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Matthew H. Mead, Governor

John Corra, Director

FILED

August 20, 2012

CERTIFIED MAIL

Aug 24, 2012

Ms. Audrey J. Bergeson
211 Black Hall Mountain Road
P.O. Box 541
Encampment, WY 82325

Jim Ruby, Executive Secretary
Environmental Quality Council

**RE: Notice of Violation and Order, Docket Number 5025-12
Sewage discharge without proper treatment**


Dear Ms. Bergeson:

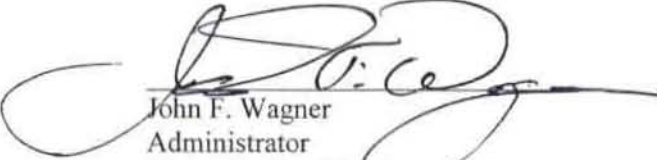
Attached is a copy of a Notice of Violation and order, Docket Number 5025-12, issued to you for the construction of a wastewater facility without a permit.

ANY APPEALS TO THE ENVIRONMENTAL QUALITY COUNCIL FROM THE ATTACHED ORDER MUST BE MADE IN WRITING WITHIN THE TEN (10) DAY TIME LIMIT PRESCRIBED BY W.S. 35-11-701(c). Chapter I, Section 3 of the Department of Environmental Quality Rules of Practice and Procedure (<http://soswy.state.wy.us/RULES/5675.pdf>) sets forth the requirements for the initiation of appeal proceedings.

To appeal this Order and request a hearing, you must file two (2) copies of your written petition. The first petition shall be mailed to the Chairman of the Environmental Quality Council at Room 1714, Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. The second petition should be sent to John V. Corra, Director, Wyoming Department of Environmental Quality, Herschler Building, 4th West, 122 West 25th Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

PLEASE DIRECT ALL INQUIRIES TO: Seth W. Tourney, Southeast District Engineer at the Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Telephone 307-777-7088.


John V. Corra
Director
Department of Environmental Quality


John F. Wagner
Administrator
Water Quality Division



Audrey Bergeson
August 20, 2012
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JVC/JFW/SWT/bb/rm/12-0778

Enclosure: Notice of Violation and Order

cc: Rich Cripe ► Seth Tourney (PDF)
NOV Docket **5025-12**
Environmental Quality Council
Keith Guille, DEQ Public Information Officer (PDF)

Aug 24, 2012

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL

Jim Ruby, Executive Secretary
Environmental Quality Council

STATE OF WYOMING

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

Audrey J. Bergeson)
211 Black Hall Mountain Road)
P.O. Box 541)
Encampment, Wyoming 82325)
)
)
)
)

DOCKET NUMBER 5025-12

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. On July 21, 2011, a site investigation of 211 Black Hall Mountain Road was conducted by Mr. Ron Ewald, the Assistant Southeast District Engineer for the Wyoming Department of Environmental Quality / Water Quality Division (WDEQ/WQD), due to a complaint. Mr. Ewald observed, from the nearest property line, what appeared to be an open surface sewage pool in a shallow pit approximately four (4) feet by eight (8) feet in surface area. This small pool had a small drainage flow from the bottom end which dissipated in a corral about 30 feet away.
2. On August 5, 2011, a certified letter was sent to you to open communication regarding the investigation of the report of an open surface sewage pit at 211 Black Hall Road in the SE ¼ of Section 6, T14N, R83W, Carbon County. The letter was returned unopened to the Department of Environmental Quality by the Post office on August 25, 2011, because it was unclaimed after multiple attempts to deliver the letter.
3. On November 17, 2011, another site investigation was performed at 211 Black Hall Road by Ron Ewald. During that site investigation, you were cooperative, and you indicated that you wanted to get the problem fixed and eliminated. The WDEQ/WQD had water samples taken from the small pool analyzed and the results confirmed that the pool was indeed sewage.
4. On December 30, 2011, a letter was issued to you by Mr. Ewald describing a voluntary resolution process. This process included your submission of three (3) completed application packages to the WDEQ/WQD before April 30, 2012. Mr. Ewald agreed to review the application as soon as possible upon receipt. After permit issuance, the new septic system was to be completed, but not covered, no later than June 30, 2012. If all of these processes were completed by June 30, 2012 and inspected and approved before July 10, 2012; the Wyoming Department of Environmental Quality / Water Quality Division would have deemed this situation to have been resolved voluntarily.
5. On March 29, 2012, April 11, 2012, and April 27, 2012, you were contacted through voice messages left by Ron Ewald, reminding you of the impending April 30th, 2012 application deadline.

6. On April 27, 2012 and April 30, 2012, Seth Tourney, the Southeast District Engineer for the Wyoming Department of Environmental Quality, contacted you by phone to discuss the impending deadlines. On April 30, 2012, you indicated that you were going to hire Doug Youngberg, Youngberg Plumbing and Heating, to perform the permit application requirements and construction of the septic system for the residence.
7. In May, 2012, you submitted a Wyoming Water Quality Application Form for a new septic system to be built on the property. This application form did not include any information or records of the on-site testing, design, nor technical information; thus, no Permit to Construct Number was assigned to the application.
8. On May 1, 2012, May 22, 2012, June 6, 2012, and June 22, 2012, Doug Youngberg, Youngberg Plumbing and Heating, was contacted to remind him of the impending June 30th, 2012 construction deadline. It was discussed that the WDEQ/WQD needed the permit application as soon as possible, so the permit could be issued for the septic system construction. On June 22, 2012, Mr. Youngberg indicated that he would physically deliver the permit application package to the Department of Environmental Quality office on June 25, 2012.
9. On June 25, 2012 and June 27, 2012, Seth Tourney attempted to contact Doug Youngberg by phone; however, it was not possible to leave a voice message at his phone number.
10. On June 25, 2012, June 28, 2012, and June 29, 2012, Seth Tourney contacted you by phone about the impending June 30th, 2012 construction deadline.
11. As of August 20, 2012, a completed application has not been received by the WDEQ/WQD. Thus, no construction of a septic tank has been authorized for construction at 211 Black Hall Road.
12. The construction of the water and sewer facilities without a valid permit constitutes a violation of the Water Quality Rules and Regulations (WQR&R) as well as the Environmental Quality Act (EQA) which prohibits such construction without first obtaining a permit authorizing such construction;
13. The above identified acts constitute a violation of the Environmental Quality Act, Section 35-11-301(a)(iii) and (v) which states, "Prohibited acts. (a) No person, except when authorized by a permit issued pursuant to the provisions of this act, shall: (iii) Construct, install, modify or operate any sewerage system, treatment works, disposal system or other facility --- capable of causing or contributing to pollution, --- or (v) Construct, install, modify or operate any public water supply, ---." These actions also constitute violations of Chapter 3, 25, and 12 of the Wyoming Water Quality Rules & Regulations(WWQR&R);
14. For the above reasons, you are in violation of the Environmental Quality Act, Section 35-11-301(a)(iii) and (v).
15. 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 the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.
16. Pursuant to W.S. 35-11-901(a), any person who violates any provision of the Environmental Quality Act, or any order, rule, standard, permit, license or variance adopted thereunder, is subject to a penalty not to exceed ten thousand dollars (\$10,000) for each violation for each day during which violation continues. 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.

ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL-STATE OF WYOMING

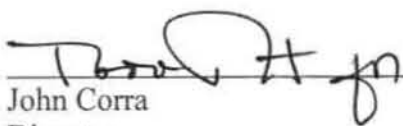
WHEREFORE IT IS HEREBY ORDERED THAT:

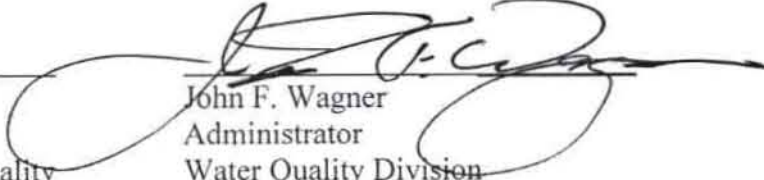
1. Complete and submit to the WDEQ/WQD the enclosed Conventional Septic Systems Application Package for Permit to Construct required under these regulations within 20 days of receipt of this ORDER. Contact Ron Ewald at (307) 777-6183 or Seth Tournay at (307) 777-7088, if you have any questions regarding the application package.
2. Upon approval of the application for the permit to construct, immediately install a septic holding tank, minimum size 1000 gallons, and call Ron Ewald at (307) 777-6183 or Seth Tournay at (307) 777-7088 to inspect and verify that it has been done.

THIS ORDER is final unless, not later than ten (10) days after the date this notice is received, it is appealed by filing a written request for a hearing before the Environmental Quality Council. If a hearing is requested, the hearing petition shall be mailed to the Chairman, Wyoming Environmental Quality Council, Room 1714 Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

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

ORDERED this 24th day of August, 2012.


John Corra
Director
Department of Environmental Quality


John F. Wagner
Administrator
Water Quality Division

PLEASE DIRECT ALL INQUIRES TO: Seth W. Tournay, Southeast District Engineer at the State of Wyoming, Department of Environmental Quality, Water Quality Division, Herschler Building - 4 West, Cheyenne, Wyoming 82002, or at telephone (307) 777-6183.

SWT/rm/12-0778

cc: **IPS-5025-12**
Environmental Quality Council
Keith Guille, DEQ Public Information Officer
Seth Tournay, Southeast District Engineer, Cheyenne

Enclosure: Conventional Septic Systems Application Package for Permit to Construct