BEFORE THE

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF WYOMING

		E.TTED
IN THE MATTER OF THE NOTICE OF)	JUN 2 8 2013
VIOLATION AND ORDER ISSUED TO:)	0011 2 0 2010
)	Jim Ruby, Executive Secretary
Mr. Kelly Eckhardt)	Jim Ruby, Executive Secretary Environmental Quality Council
Kelly Eckhardt Transport)	
670 North 4th Street)	
Lander, WY 82520)	
)	
)	DOCKET NUMBER 5173-13
)	
)	

NOTICE OF VIOLATION AND ORDER

NOTICE IS HEREBY GIVEN THAT:

- The Wyoming Department of Environmental Quality, Water Quality Division (WQD) conducted an inspection of the Kelly Eckhardt Transport facility (Eckhardt) on December 13, 2012. Violations from this inspection included: operating without an Industrial General Storm Water authorization and inadequate Best Management Practices (BMPs) to control transport of pollutants to waters of the state.
- 2. During the site inspection DEQ noted that manure washout water from cattle hauling trucks had the potential to reach Baldwin Creek, a class 2 AB, which is a water of the state as defined under W.S. 35-11-103 (c)(vi). Manure is "pollution" as defined in W.S. 35-11-103(c)(i);
- 3. Any discharge of pollutants to a water of the state is a violation of Chapter 2 of the Wyoming Water Quality Rules and Regulations and W.S. 35-11-301 (a)(i) which states that no person, except when authorized by a permit issued by the Department of Environmental Quality, shall cause, threaten or allow the discharge of any pollution or wastes into the waters of the state;
- 4. The Industrial General Storm Water permit states in Part 2.14.8: <u>Transportation facilities classified as Standard Industrial Classifications:</u> "Facilities that have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations are associated with industrial activity."
- 5. The Industrial General Permit-Storm water states in Part 3.5: <u>Agreement to comply:</u> "Submission of the Notice of Intent to the Department constitutes full agreement by the permittee to meet and comply with all requirements of this general permit."
- 6. The DEQ submitted a copy of the inspection report to Eckhardt and a Letter of Violation dated February 5, 2013, requiring Eckhardt to obtain authorization under the Industrial General Storm Water permit and meet the requirements of the authorization or elevated enforcement could be considered based on the ongoing operations and the nature of the violations. At this time no authorization has been applied for or obtained by Eckhardt.
- 7. DEQ has received numerous phone calls and anonymous citizen complaints since the date of the inspection regarding concerns of possible contamination of Baldwin Creek based on observation of the ongoing washout operations at the facility over the last 6 months. Other photographs on record show a tanker truck being washed out as well. The content of the truck was not determined at the time of the photo.

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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;

ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL - STATE OF WYOMING

WHEREFORE IT IS HEREBY ORDERED THAT:

- 1. Within 30 days of receipt of this NOV and Order Eckhardt shall submit the required application(s) to obtain authorization under the Industrial General Storm Water Permit and cease any and all truck washing operations with the potential to reach surface water or impact groundwater until the authorization is approved.
- 2. Within 60 days of receipt of this NOV and Order Eckhardt shall complete the corrective actions identified in the inspection report to include; implement a signed and certified Storm Water Pollution Prevention Plan (SWPPP), conduct and document the required self-monitoring inspections as specified in the SWPPP, maintain records of the inspections, and implement Best Management Practices (BMPs) to contain and manage any processed water with the potential to impact surface or groundwater. All records should be maintained on site and made available for review by DEQ upon request.

This ORDER is final unless, no 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 St., Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of the Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th St., 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.

Signed this 28th day of June, 2013.

Todd Parfitt

Director

Department of Environmental Quality

Kevin Frederick Administrator

Water Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Kevin M. Wells, WYPDES Natural Resource Program Supervisor, Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

TP/KF/KMW/rm/13-0573

cc: David Gwisdalla, 8ENF-W-NP, EPA Region 8 (PDF)
Bill DiRienzo ► Kevin Wells ► Barb Sahl (PDF)

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Environmental Quality Council

Director, DEQ

Keith Guille, DEQ Public Information Office (PDF)