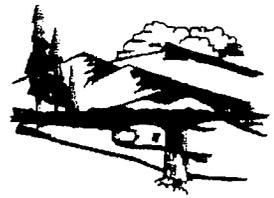


Department of Environmental Quality



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

Dave Freudenthal, Governor

John Corra, Director

Friday, December 4, 2009

Certified #7008 0150 0001 1174 1903

Return Receipt Requested

Paul Von Stein, Project Manager II
Safeway, Inc.
6900 South Yosemite
Englewood, CO 80112

RE: Issuance of Notice of Violation (NOV)

Enclosed is a NOV issued to your facility for violation of the Wyoming State Solid Waste Rules and Regulations (SWRR). Specifically, the NOV has been issued for the following violation:

On September 14, 2009, the Wyoming Department of Environmental Quality (WDEQ), Solid and Hazardous Waste Division (SHWD), personnel, Mr. Charles Plymale, inspected the Lander Safeway store located at 1165 Main St., Lander, WY, to evaluate compliance with the Wyoming Solid Waste Rules and Regulations (SWRR), due to a complaint the division had received from the WDEQ Air Quality Division.

The inspection revealed the following violations:

Count 1: Wyoming Solid Waste Rules & Regulations (SWRR), Chapter 1, Section 1(f)(i), states, "A permit or a one-time or emergency disposal authorization is required for the location, construction, operation or closure of any new or existing solid waste management facility as specified by chapter 1, Section 5, or by the applicable chapters of these rules and regulations." ARS Inc., a subcontractor of Roche Contractors, Inc., used fly ash as a soil stabilizer without a beneficial use permit or one time authorization from the WDEQ/SHWD. Analytical test results provided for the fly ash used at this location verifies the fly ash did not meet the WDEQ clean fill requirements and, therefore, it would not have qualified for a one-time authorization or a beneficial use permit. Therefore, the facility is in violation of Chapter 1, Section 1(f)(i), since it does not have a current permit or one-time authorization (OTA) to manage wastes at this location.

Due to the seriousness of the above violation, caused by the potential human health hazards and environmental impacts resulting from the mismanagement of this waste, the department is seeking a penalty.



4885

Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

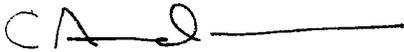
ADMIN/OUTREACH (307) 777-7937 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
--	---	---	---	--	--	---



Mr. Von Stein, 12/4/2009

If you have any questions regarding this letter, the attached NOV, or wish to discuss voluntary settlement of the penalty, please contact Bob Breuer at (307) 473-3454, or Charles Plymale at (307) 335-6951.

Sincerely,

A handwritten signature in black ink, appearing to read 'C Anderson', followed by a horizontal line extending to the right.

Carl Anderson, PhD
Administrator
Solid and Hazardous Waste Division

Enclosure: NOV

C: Patrick Troxel, SWP&CA
Bob Breuer, I&C Program Manager
Tim Link, I&C
Charles Plymale, I&C; Lander File
Cheyenne File

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

IN THE MATTER OF THE
NOTICE OF VIOLATION
ISSUED TO:

SAFEWAY, INC.
1165 Main St.
Lander, WY 82520

)
)
) DOCKET NO. 4600-09
)
)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

On September 14, 2009, the Wyoming Department of Environmental Quality (WDEQ), Solid and Hazardous Waste Division (SHWD), personnel, Mr. Charles Plymale, inspected the Lander Safeway 1165 Main St., Lander, WY, to evaluate compliance with the Wyoming Solid Waste Rules and Regulations (SWRR). The inspection was conducted in response to a complaint the division had received from the WDEQ Air Quality Division.

The inspection revealed the following violations:

- Count 1: Wyoming Solid Waste Rules & Regulations (SWRR), Chapter 1, Section 1(f)(i), states, "A permit or a one-time or emergency disposal authorization is required for the location, construction, operation or closure of any new or existing solid waste management facility as specified by chapter 1, Section 5, or by the applicable chapters of these rules and regulations." ARS Inc., a subcontractor of Roche Contractors, Inc., used fly ash as a soil stabilizer without a beneficial use permit or one time authorization from the WDEQ/SHWD. Analytical test results provided for the fly ash used at this location verifies the fly ash did not meet the WDEQ clean fill requirements and, therefore, it would not have qualified for a one-time authorization or a beneficial use permit. Therefore, the facility is in violation of Chapter 1, Section 1(f)(i), since it does not have a current permit or one-time authorization (OTA) to manage wastes at this location.

ANY PERSON who violates any provision of the Environmental Quality Act, or any rules, standard, permit, license, or variance adopted thereunder, is liable to a penalty of ten thousand dollars (\$10,000) for each day of violation, which penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming; and

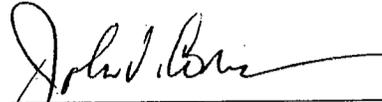
THIS NOTICE OF VIOLATION is being sent to you pursuant to Wyoming Statute 35-11-701(c) which requires that in any case of the failure to correct or remedy an alleged violation the Director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.



Signed this 11 day of Dec, 2009



Carl Anderson, PhD
Administrator
Solid & Hazardous Waste Division



John V. Corra
Director
Dept. of Environmental Quality