



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

CERTIFIED MAIL

March 23, 2006

Mr. Rick Anderson
General Manager
Brooks Realty & Advisory Group
7373 East Doubletree Ranch Road, Suite 230
Scottsdale, Arizona 85258

RE: Notice of Violation, Docket Number 3853-06

Dear Mr. Anderson:

Attached is a copy of a Notice of Violation, Docket Number 3853-06, issued to Brooks Realty & Advisory Group (Brooks Realty), for violations noted by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) at the B.B. Brooks Ranch development, the Diamond B Ranch Development, and the Remington Ranch Development. Violations at each development include the failure to obtain coverage under the general permit for large construction activities, failure to develop a storm water pollution prevention plan (SWPPP), failure to install proper best management practices (BMPs) to control storm water runoff, and failure to conduct inspections.

While neither the attached Notice of Violation nor this letter constitutes an order, this office strongly urges you to take action to immediately eliminate the alleged violations as follows:

1. Brooks Realty should submit a separate Notice of Intent (NOI) to the WQD for each development. This information should be received by the WQD on or before April 14, 2006.
2. Brooks Realty should submit a separate SWPPP to WQD for review for each development. This information should be received by the WQD on or before April 27, 2006.
3. Brooks Realty should install storm water preventative measures throughout the life of the projects to ensure no sedimentation enters a water of the state.
4. Brooks Realty should maintain compliance with all conditions established in the WYPDES storm water general permit for large construction activities.

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

ADMIN/OUTREACH
(307) 777-7758
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 777-6937

LAND QUALITY
(307) 777-7756
FAX 777-5864

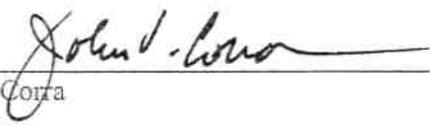
SOLID & HAZ. WASTE
(307) 777-7752
FAX 777-5973

WATER QUALITY
(307) 777-7781
FAX 777-5973

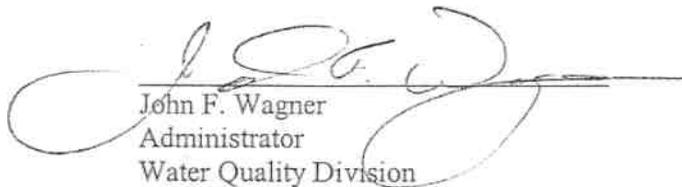


Mr. Rick Anderson
March 23, 2006
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The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by Brooks Realty. If Brooks Realty wishes to pursue resolution of the previously noted violations through such an agreement, please contact Mr. Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator, at (307) 777-8669 on or before April 7, 2006 to set up a meeting to discuss this matter.



John V. Corra
Director
Department of Environmental Quality



John F. Wagner
Administrator
Water Quality Division

JVC/JFW/BRB/bb/06-0244.LTR

Enclosure: Notice of Violation
 2/13/06 Inspection Report
 Large Construction Storm Water General Permit
 NOI Forms

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
 Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
 Craig W. Toal, Casper DEQ Office
 Brian K. Lovett ► Barb Sahl
 NOV Docket 3853-06
 Director, DEQ

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

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

Brooks Realty & Advisory Group)
7373 East Doubletree Ranch Road, Suite 230)
Scottsdale, Arizona 85258)

DOCKET NUMBER 3853-06

NOTICE OF VIOLATION

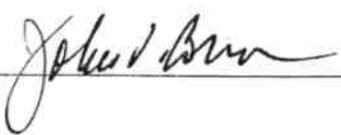
NOTICE IS HEREBY GIVEN THAT:

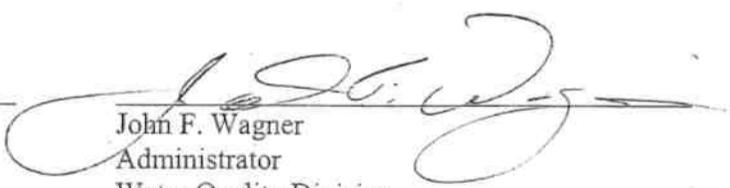
1. Brooks Realty & Advisory Group (Brooks Realty) is the operator of a 41,000 acre development described as the B.B. Brooks Ranch located ten (10) miles north of Casper, Wyoming and east of Interstate 25. Phase I of the development consists of approximately eight thousand (8,000) acres located in portions of Sections 4, 5, 6, 7, 8, 17, 18, 19, 20, and 21, in Township 35 North, Range 78 West (T35N, R78W), portions of Sections 31, 32, and 33, in T36N, R78W, and portions of Sections 3, 4, 9, and 10, in T35N, R79W, all in Natrona County, Wyoming. Roads constructed in Phase I of the development resulted in an estimated 160 acres of disturbed land;
2. Brooks Realty is the operator of a 7,300 acre development described as the Diamond B Ranch located twenty-five (25) miles northeast of Cheyenne, Wyoming and north of U.S. Highway 85. Phase I of the development consists of approximately three thousand seven hundred (3,700) acres located in Sections 17, 18, 19, 20, 28, and 29, T17N, R64W, Laramie County, Wyoming. Roads constructed in Phase I of the development resulted in an estimated 73 acres of disturbed land;
3. Brooks Realty is the operator of a 3,300 acre development described as the Remington Ranch located twenty (20) miles southeast of Cheyenne, Wyoming and south of Interstate 80. This development is located in Sections 1, 2, 11, and 12, in T12N, R64W, and Section 35 in T13N, R64W, all in Laramie County, Wyoming. Roads constructed in the development resulted in an estimated 49 acres of disturbed land;
4. Chapter 2, Section 2(a)(ii) of the Wyoming Water Quality Rules and Regulations (WWQRR) states "*All storm water discharges from industrial, construction, and municipal facilities as described in Section 6 of these regulations ... shall be permitted as described in these regulations*". Chapter 2, Section 4(o)(i)(B) of the WWQRR states "*... for any storm water discharge associated with large construction activities as described in Section 6(f)(i) ... should have made an application to the administrator ... as specified in the applicable general permit.*";
5. Chapter 2, Section 6(f)(i) of the WWQRR concerning large construction activities states the following: "*Storm water discharge associated with large construction activity means the discharge of storm water from construction activities, including clearing, grading, and excavating, that result in land disturbance of five (5) or more acres of total land area. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a large common plan of development or sale if the larger common plan will ultimately disturb five (5) acres or more.*";

6. Part III.A.1. of the general permit for storm water discharges associated with large construction activities (general permit) states "... *any operator of a large construction activity ... shall prepare a storm water pollution prevention plan (SWPPP) and submit a Notice of Intent (NOI)... to the Department at least 30 days prior to commencing construction activities. ...*" Part III.A.3. of the general permit states "*An NOI must be submitted to the Department and coverage under this permit must be authorized in writing prior to the start of soil disturbing activities.*" The DEQ has no record of receiving an NOI for any of the three (3) projects referenced above. These are violations of Part III.A. of the general permit and Chapter 2 of the WWQRR;
7. On February 13, 2006, the WQD conducted inspections at the B.B. Brooks Ranch and the Remington Ranch developments. Concerns noted during each inspection included the failure to develop a SWPPP for each site, failure to install any best management practices (BMPs) to prevent sediment from entering the drainages, filling in drainages without first installing culverts to allow water to continue flowing down the drainages, failure to conduct inspections every two weeks as required by the general permit, and failure to stabilize disturbed slopes to prevent sediment from being transported onto vegetated areas; These are violations of the general permit and Chapter 2 of the WWQRR;
8. 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;
9. Pursuant to Wyoming Statute 35-11-901(a), any person who violates, or any director, officer or agent of a corporate permittee who willingly and knowingly authorizes, orders or carries out the violation of any provision of the Environmental Quality Act (Act), or any rule, regulation, standard, or permit adopted hereunder or who violates any determination or order of the council pursuant to this act or any rule, regulation, standard, permit, license, or variance is subject to a penalty not to exceed ten thousand dollars and no cents (\$10,000.00) for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction. 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. Nothing herein shall preclude the DEQ from negotiating stipulated settlements involving the payment of a penalty, implementation of compliance schedules or other settlement conditions.

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

Signed this 24TH day of MARCH, 2006.


John V. Corra
Director
Department of Environmental Quality


John F. Wagner
Administrator
Water Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator, Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

JVC/JFW/BRB/bb/6-0244.NOV

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
Craig W. Toal, Casper DEQ Office
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Director, DEQ