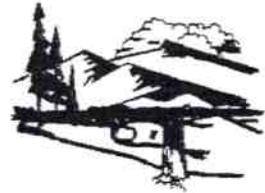




Department of Environmental Quality



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

May 8, 2006

CERTIFIED MAIL

Mr. Nick Schreiber
Project Manager
The Point, LLC
7035 Legacy Parkway
Cheyenne, Wyoming 82009

RE: Notice of Violation, Docket Number 3867-06

Dear Mr. Schreiber:

Attached is a copy of Notice of Violation, Docket Number 3867-06, issued to The Pointe, LLC (The Pointe), a subsidiary of the Guardian Companies, LLC (Guardian), for failing to maintain proper storm water preventative measures in accordance with the WYPDES general storm water permit for large construction activities. As of the date of this notice, four (4) inspections of The Pointe Subdivision project have been conducted by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD). All inspections have noted deficiencies in the implementation and maintenance of the storm water best management practices (BMPs). The most recent inspection was conducted on April 12, 2006 and again noted a lack of implementation and maintenance of storm water controls resulting in the discharge of sediment to Child Draw.

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

1. The Pointe should maintain compliance with all conditions established in the WYPDES general storm water permit for large construction activities.
2. The Pointe should update storm water preventative measures throughout the life of the project to ensure no sediment leaves the construction site.
3. The Pointe should remove and properly dispose of all accumulated sediment out of the detention pond located at the southeast corner of the intersection of Four Mile Road and Legacy Parkway.
4. The Pointe should remove and properly dispose of all sediment which traveled north through culverts under Four Mile Road and was deposited in the Four Mile Road/Wyoming State highway 212 right-of-way, and on private property located north of Four Mile Road. This should be completed on or before June 5, 2006.

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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

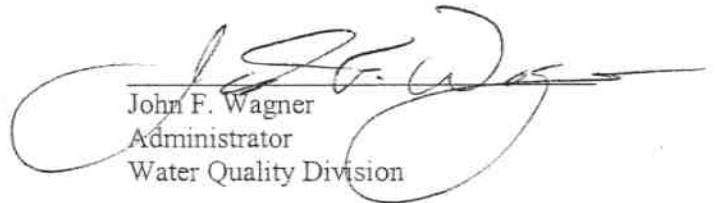


Mr. Nick Schreiber
May 8, 2006
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5. The Pointe should provide the WQD with copies of all inspections conducted at the construction site since January 1, 2005. As required by the WYPDES general storm water permit for large construction activities, inspections of the erosion control structures are required to be conducted every two weeks and within 24-hours of a storm event that results in at least a half inch of precipitation. Copies of the inspection reports should be received by the WQD on or before June 5, 2006.
6. The Pointe should provide the WQD with a written report indicating the steps taken to prevent these violations from occurring again in the future. This information should be received by the WQD on or before June 5, 2006.

The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by The Pointe. If The Pointe desires 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 June 5, 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

Enclosure: Notice of Violation
4/12/06 Inspection Report

JVC/JFW/BRB/bb/06-0378.LTR

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
Bill J. DiRienzo ► Brian K. Lovett ► Barb Sahl
IPS (for scanning) ► Docket 3867-06
Keith Guille, DEQ Public Information Officer (PDF File)
DEQ Director

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

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

The Point, LLC)
7035 Legacy Parkway)
Cheyenne, Wyoming 82009)
)
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)
)
)

DOCKET NUMBER 3867-06

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

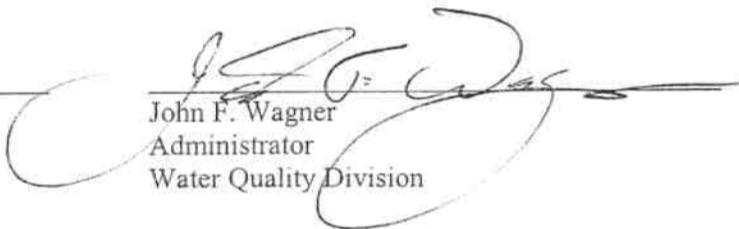
1. The Pointe, LLC (The Pointe), a subsidiary of the Guardian Companies, LLC (Guardian), is the operator of a construction project described as The Pointe Subdivision located in portions of Sections 17 through 20, Township 14 North, Range 66 West, in the City of Cheyenne, Laramie County, Wyoming. Large construction storm water WYPDES authorization WYR101793 was issued by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD), to The Point for The Pointe Subdivision on March 24, 2003, and expires on August 31, 2006. Child Draw receives storm water runoff from the construction project;
2. On August 19, 2003, the WQD inspected The Pointe Subdivision construction project. Inadequate best management practices (BMPs) for storm water erosion control and failing to document storm water inspections were noted during this inspection and discussed with The Pointe representatives;
3. The WQD conducted a second inspection on June 17, 2005 and issued a letter of violation (LOV) to The Pointe on June 23, 2005. The LOV informed The Pointe that (1) the project Storm Water Pollution Prevention Plan (SWPPP) needed to be modified to include best management practices (BMPs) for protection of the City of Cheyenne storm sewer system; and (2) routine inspection and repair of BMPs needed to be conducted in accordance with the permit requirements for the entire construction site;
4. The Pointe Subdivision was inspected by the WQD a third time on July 18 and 19, 2005 as a result of a complaint. The inspector observed and documented inadequate maintenance of BMPs at the construction site. This lack of maintenance of erosion controls resulted in the movement of sediment north through culverts under Four Mile Road which was deposited in the Four Mile Road/Wyoming State highway 212 right-of-way, and on private property located north of Four Mile Road. The WQD concerns were expressed to The Point during the clean-up of the sediment;
5. The Pointe Subdivision was inspected by the WQD again on April 12, 2006, once again as a result of a complaint. The inspector again observed and documented inadequate maintenance of BMPs at the construction site. This lack of maintenance of erosion controls resulted in the movement of sediment north through culverts under Four Mile Road which was deposited in the Four Mile Road/Wyoming State highway 212 right-of-way, and on private property located north of Four Mile Road;
6. A second concern noted during the April 12, 2006 inspection was a detention pond completely filled with sediment. Detention ponds need to be frequently checked and cleaned out in order to maintain the effectiveness of the BMP;

7. Preventative measures are to be in place before, during and after any construction work as required by the general storm water permit. During the inspections, it was noted that all storm water preventative measures were not in place. This is a violation of Part IV.D.2. of the general permit;
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 on 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 7 day of May, 2006.


John Y. 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/06-0378.NOV

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
Bill J. DiRienzo ► Brian K. Lovett ► Barb Sahl
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Keith Guille, DEQ Public Information Officer (PDF File Only)
DEQ Director