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

May 24, 2006

Mr. Tyler D. Casebier
Vice President
D & K Construction Management, Inc.
1414 Hawk Parkway, Suite B
Montrose, Colorado 81401

RE: NOV Docket Number 3880-06 -- Failing to pay all Fiscal Year 2005 WYPDES fees

Dear Mr. Casebier:

Enclosed is a copy of a Notice of Violation, Docket Number **3880-06** issued to D & K Construction Management, Inc. (the company). The company is the registered owner and operator of WYPDES permits and/or authorizations during the period from July 1, 2004 through June 30, 2005. A WYPDES fee invoice was sent to the company on July 29, 2005 requesting payment of all fees by September 1, 2005. A second WYPDES fee invoice was sent to the company on December 6, 2005 requesting payment of all fees by January 16, 2006. The company was called in April, 2006 and a third invoice was faxed to the company. To date, all WYPDES permit and/or authorization fees have not been paid by the company in violation of W.S.35-11-312.

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 violations as follows:

1. The company should pay the WYPDES authorization fee of one hundred dollars and no cents ($100.00) for authorization WYR102179 and a penalty of five hundred dollars and no cents ($500.00) for failing to submit the fee payment when required. A total payment of six hundred dollars and no cents ($600.00) should be received by the DEQ on or before June 21, 2006.

2. Payment to the DEQ shall be by check made payable to the Wyoming Department of Environmental Quality, Water Quality Division. The payment should be sent to: Mr. Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator, Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor-West, 122 West 25th Street, Cheyenne, Wyoming, 82002. The check should reference Docket Number 3880-06 and WYPDES invoice number 2005-223.

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

ADMIN/OUTREACH	ABANDONED MINES	AIR QUALITY	INDUSTRIAL SITING	LAND QUALITY	SOLID & HAZ. WASTE	WATER QUALITY
(307) 777-7758	(307) 777-6145	(307) 777-7391	(307) 777-7369	(307) 777-7756	(307) 777-7752	(307) 777-7781
FAX 777-3610	FAX 777-6462	FAX 777-5616	FAX 777-6937	FAX 777-5864	FAX 777-5973	FAX 777-5973

The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by the company. If the company wishes to pursue resolution of the previously noted violation through such an agreement, please contact Mr. Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator, at (307) 777-8669 on or before June 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/6-0460.LTR

Enclosure: WYPDES Invoice 2005-223
Docket Number 3880-06

cc: Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
Docket Number 3880-06

BEFORE THE

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:	)	
D & K Construction Management, Inc. **1414 Hawk Parkway, Suite B** **Montrose, Colorado 81401**	)	**DOCKET NUMBER 3880-06**

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. D & K Construction Management, Inc. (the company) is the owner of WYPDES authorization WYR102179 allowing them to discharge to the surface waters of the State of Wyoming. A WYPDES fee invoice was sent to the company on July 29, 2005 requesting payment of all fees by September 1, 2005. A second WYPDES fee invoice was sent to the company on December 6, 2005 requesting payment of all fees by January 16, 2006. The company was called the middle of April, 2006 and faxed a third invoice. To date, the one hundred dollar and no cent ($100.00) fee for the WYPDES permit and/or authorization has not been paid;

2. W.S. 35-11-312 states: ***"On July 1 of each year, the department shall assess an annual permit fee of one hundred dollars ($100.00) for each national pollutant discharge elimination system permit and for each permit authorization held by any person under W.S. 35-11-301 during any portion of the preceding twelve (12) month period..."***;

3. WYPDES permits and/or authorizations were active during Fiscal Year 2005 which is from July 1, 2004 through June 30, 2005. Therefore the company is required to pay the $100.00 fee. By failing to pay all WYPDES permit and/or authorization fees, the company has violated W.S. §35-11-312;

4. 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;

5. 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 department from negotiating stipulated settlements involving the payment of a penalty, implementation of compliance schedules or other settlement conditions, as appropriate, in lieu of litigation.

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 _____ day of May 26 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/6-0460.NOV

cc: Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
NOV Docket 3880-06
DEQ Director