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

June 22, 2006

Mr. Bart Duffey
Developer
Wildflower Land, LLC
3919 Central Avenue
Cheyenne, Wyoming 82001

RE: Notice of Violation, Docket Number 3903-06

Dear Mr. Duffey:

Attached is a copy of a Notice of Violation, Docket Number 3903-06, issued to Wildflower Land, LLC (Wildflower), for violations noted by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) at the Wildflower Ranch Phase I, II, III and IV development. Violations at the 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. Wildflower should submit a Notice of Intent (NOI) to the WQD for the Wildflower Ranch Phase I, II, III and IV development. This information should be received by the WQD on or before June 27, 2006.

2. Wildflower should submit a separate SWPPP to WQD for review for each development. This information should be received by the WQD on or before July 11, 2006.

3. Wildflower should install storm water preventative measures throughout the life of the projects to ensure no sedimentation enters a water of the state.

4. Wildflower 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	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 Wildflower. If Wildflower 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 July 11, 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/6-0528.LTR

Enclosure: Notice of Violation
5/23/06 Inspection Report
Large Construction Storm Water General Permit
NOI Form

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 3903-06
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:	)	
	)	
Wildflower Land, LLC	)	
3919 Central Avenue	)	
Cheyenne, Wyoming 82001	)	
	)	**DOCKET NUMBER 3903-06**
	)	
	)	
	)	

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Wildflower Land, LLC (Wildflower) is the operator of a development described as the Wildflower Ranch Phase I, II, III, and IV located approximately fifteen (15) miles east of Cheyenne, Wyoming and four (4) miles north of Interstate 80. The development is located in Sections 2, 3 and 4, in Township 14 North, Range 64 West (Sec. 1, T14N, R65W) in Laramie County, Wyoming. Roads constructed in the development resulted in at least ten (10) acres of disturbed land;

2. 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."***;

3. 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."***;

4. 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 the project referenced above. This is a violation of Part III.A. of the general permit and Chapter 2 of the WWQRR;

5. On May 23, 2006, the WQD conducted an inspection at the Wildflower Ranch Phase I, II, III, and IV development. Concerns noted during the inspection included the failure to develop a SWPPP for the site, failure to install any best management practices (BMPs) to prevent sediment from entering drainages, and failing to obtain coverage under the General Permit for Large Construction Activities. These are violations of the general permit and Chapter 2 of the WWQRR;

6. 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;

7. 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 26 day of June, 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/6-0528.NOV

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
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