Dave Freudenthal, Governor

Department of Environmental Quality

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

John Corra, Director

CERTIFIED MAIL July 17, 2006

Mr. Dan W. Guerttman
WN McMurry Construction Company
P.O. Box 50710
Casper Wyoming 82605

RE: Notice of Violation, Docket Number 3896-06

Dear Mr. Guerttman:

Attached is a copy of a Notice of Violation, Docket Number 3896-06, issued to WN McMurry Construction (McMurry), for violations noted by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) at the Honda of Casper and Wyoming Central Credit Union construction site. Violations at the construction site include the failure to maintain proper best management practices (BMPs) to control storm water runoff, failure to conduct and document inspections as required by the general permit, and failing to submit a copy of the storm water pollution prevention plan (SWPPP) to the WQD for review as requested by the WQD.

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. McMurry should submit copies of all storm water inspections (which are to be conducted and documented every 14 days) since the project first began to the WQD for review. This information should be received by the WQD on or before August 11, 2006.

2. McMurry should maintain storm water preventative measures throughout the life of the projects to ensure no sedimentation enters a water of the state.

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 McMurry. If McMurry 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 31, 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
6/16/06 Inspection Report

JVC/JFW/BRB/bb/6-0636.LTR

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator
Craig W. Toal, WYPDES Inspector, Casper DEQ Office
Bill J. DiRienzo ► Brian K. Lovett ► Barb Sahl
IPS (for scanning) ► Docket 3896-06
Keith Guille, DEQ Public Information Officer (PDF File)

BEFORE THE

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION ISSUED TO:	)	
WN McMurry Construction **P.O. Box 50710** **Casper, Wyoming 82605**	)	**DOCKET NUMBER 3896-06**

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. WN McMurry Construction (McMurry) is the operator of a construction site described as the Honda of Casper and Wyoming Central Credit Union. The construction site is located in the South ½ of Section 18, in Township 33 North, Range 79 West in Casper, Natrona County, Wyoming. WYPDES construction storm water authorization WYR103000 was issued for this facility on January 26, 2006;

2. On March 13, 2006 the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) conducted an inspection with Mr. Richard Fairservis and Mr. Dan Guerttman, both with McMurry, at the Honda of Casper and Wyoming Central Credit Union construction site. During the inspection it was determined that the Storm Water Pollution Prevention Plan (SWPPP) had not yet been developed, and that inspections at the construction site were not being conducted and/or documented. As a result, the WQD issued a Letter of Violation (LOV) to McMurry on March 17, 2006;

3. In a letter dated March 23, 2006, McMurry responded to the WQD's LOV of March 17, 2006. McMurry's letter stated that Civil Engineering Professionals, Inc. (CEPI) had been employed to conduct the storm water inspections, and attached a copy of the SWPPP to the letter. Since the attachment to McMurry's March 23, 2006 letter was only a site diagram and not a SWPPP, the WQD sent McMurry a letter dated April 24, 2006 requesting the submittal of the SWPPP on or before May 24, 2006. The WQD never received the SWPPP from McMurry and issued a second LOV on May 25, 2006 requesting the submittal of the SWPPP by June 9, 2006. Since the issuance of the May 25, 2006 LOV, the WQD received a copy of the SWPPP;

4. Part IV.A. of the Large Construction General Storm Water Permit states ***"Prior to submission of the Notice of Intent (NOI), an operator who seeks to obtain coverage under this permit shall prepare a 'Storm Water Pollution Prevention Plan' for the construction activity ..."*** McMurry stated in their NOI that a SWPPP had been developed. Nearly three (3) months after originally requested, the WQD received a copy of the SWPPP for the Honda of Casper and Wyoming Central Credit Union construction site;

5. The WQD conducted a second inspection at the Honda of Casper and Wyoming Central Credit Union construction site on June 16, 2006. Concerns noted by the inspector included failing to conduct and/or record inspections and failing to adequately install and maintain storm water erosion control devices;

6. Part IV.D.2. of the Large Construction General Storm Water Permit states ***"For projects that begin after the effective date of this permit, the SWPPP must be implemented immediately and throughout the duration of the construction activity and up until the site is finally stabilized."*** Storm water controls (Best Management Practices or BMPs) are not being installed and/or maintained in violation of this permit condition;

7. 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;

8. 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 20 day of July, 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/6-0636.NOV

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