



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

October 6, 2006

Mr. Christopher A. Hassel
Vice President
Arapahoe Utilities & Infrastructure, Inc.
14521 E. Fremont Avenue, Suite E
Englewood, Colorado 80112

RE: Notice of Violation, Docket Number 3931-06

Dear Mr. Hassel:

Enclosed is a copy of Notice of Violation, Docket Number 3931-06, issued to Arapahoe Utilities & Infrastructure, Inc. (AUI) for failing to maintain proper storm water preventative measures in accordance with the WYPDES general storm water permit for large construction activities at The Pointe subdivision. AUI is a subcontractor for Guardian Companies, LLC (Guardian) with the responsibility for maintaining storm water erosion control structures at The Pointe subdivision.

Of concern, as also noted in NOV Docket Number 3867-06, was the lack of maintenance of erosion controls (Best Management Practices or BMPs) which resulted in the movement of sediment to the 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. NOV Docket Number 3867-06 was issued to The Pointe, LLC, a subsidiary of Guardian, for The Pointe subdivision and subsequently resolved. At the time NOV Docket Number 3867-06 was issued, AUI was already responsible for maintaining storm water BMPs at The Pointe subdivision.

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. AUI should maintain compliance with all conditions established in the WYPDES general storm water permit for large construction activities.
2. AUI should update storm water preventative measures throughout the life of the project to ensure no sediment leaves the construction site.
3. AUI 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 November 2, 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



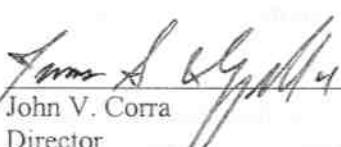
Mr. Christopher A. Hassel

October 6, 2006

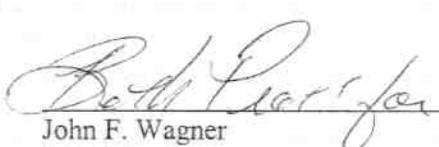
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4. AUI should provide the WQD with copies of all inspections conducted at the construction site since May 1, 2006. As required by the WYPDES general storm water permit for large construction activities, inspections of the erosion control structures 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 November 2, 2006.
5. AUI 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 November 2, 2006.

The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by the AUI. If AUI 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, or Mr. Brian K. Lovett, WYPDES Inspection & Compliance Supervisor on or before October 20, 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
9/13/06 Inspection Report

JVC/JFW/BRB/bb/6-0914.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 3931-06
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:)

Arapahoe Utilities & Infrastructure, Inc.)
14521 E. Fremont Avenue, Suite E)
Englewood, Colorado 80112)

DOCKET NUMBER 3931-06

NOTICE OF VIOLATION

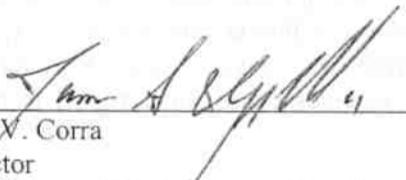
NOTICE IS HEREBY GIVEN THAT:

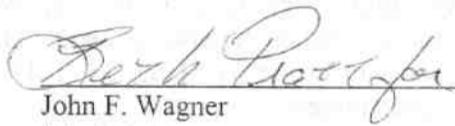
1. The Guardian Companies, LLC (Guardian), is the operator of a construction project described as The Pointe subdivision located in portions of Sections 17 through 20, Township 14 North, Range 66 West, in the City of Cheyenne, Laramie County, Wyoming. Arapahoe Utilities & Infrastructure, Inc. (AUI) is a subcontractor for Guardian with the responsibility for maintaining storm water erosion control structures at The Pointe subdivision. Large construction storm water WYPDES authorization WYR102636 was issued by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD), to AUI for The Pointe subdivision on April 7, 2004, and expired on August 31, 2006. The renewed permit became effective on September 1, 2006, and will expire on March 15, 2011. Child Draw receives storm water runoff from the construction project;
2. On May 7, 2006, the DEQ issued Notice of Violation (NOV) Docket Number 3867-06 to The Pointe, LLC, a subsidiary of Guardian, for failing to properly maintain storm water erosion control devices. Of concern, as noted in NOV Docket Number 3867-06, was the lack of maintenance of erosion controls (Best Management Practices or BMPs) which resulted in the movement of sediment to the 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 NOV was subsequently resolved;
3. On Monday, September 11, 2006, the WQD received a complaint from a resident living north of Four Mile Road. The complaint stated that over the weekend a storm event resulted in sediment from The Pointe subdivision being deposited within the Four Mile Road/Wyoming State Highway 212 right-of-way, and on private property located north of Four Mile Road;
4. On Tuesday, September 12, 2006, the WQD conducted an inspection of The Pointe subdivision as a result of the complaint. The inspector again observed and documented inadequate maintenance of BMPs at the construction site. As noted in the inspection report, silt fence in several areas needed to be repaired. Additionally, erosion was occurring between and under straw bales. In other areas water and sediment was allowed to flow around silt fence and straw bales. By failing to maintain the BMPs, AUI is in violation of Part 8.3 of the large construction storm water general permit;
5. The lack of maintenance of BMPs resulted in the movement of sediment to the 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 as confirmed by the WQD inspector on September 12, 2006. Sediment was also deposited on the south side of Four Mile Road/Wyoming State Highway 212. By allowing sediment to leave the construction site as visible and measurable erosion, AUI is in violation of Part 8.4 of the large construction storm water general permit;

6. 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;
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 on 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 5th day of October, 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/6-0914.NOV

cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8
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Keith Guille, DEQ Public Information Officer (PDF File Only)
DEQ Director