



# 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 30, 2007

Mr. Jim McCotter  
Wyoming Mountain Resorts, LLC  
PO Box 86  
Ten Sleep, WY 82441

*RE: Notice of Violation, Docket Number 4064-07*

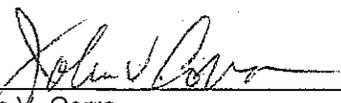
Dear Mr. McCotter

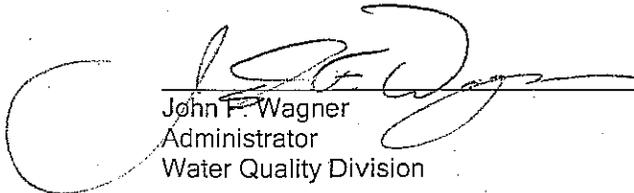
Attached is a copy of a Notice of Violation, Docket Number 4064-07, issued to Wyoming Mountain Resorts, LLC (WMR) for unauthorized wastewater discharges under WYPDES permits WY0042218 and WY0023400. WMR has also been issued numerous Letters of Violation (LOV) with regards to WYPDES permit violations from 2004 to present. These violations include; failure to submit Discharge Monitoring Reports (DMRs), various effluent parameter exceedances, and previous unpermitted discharges of wastewater/sewage. These are violations of Part I.A, B, and C of WYPDES permits WY0042218 and WY0023400.

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. WMR should maintain compliance with all conditions established in WYPDES permit WY0042218 and WY0023400.
2. WMR should provide the WQD with a written report indicating the steps taken to prevent these violations from occurring in the future. The information should be received by the WQD on or before June 30, 2007.

The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by WMR. If WMR desires to pursue resolution of the previously noted violations through such an agreement, please contact Mr. Kevin M. Wells, WYPDES Compliance & Enforcement Coordinator, at (307) 777-8669 on or before June 15 to set up a meeting to discuss this matter.

  
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 John V. Corra  
 Director  
 Department of Environmental Quality

  
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 John F. Wagner  
 Administrator  
 Water Quality Division

JVC/JFW/KMW/bb/7-0439.LTR  
Enclosure: Notice of Violation

cc: Aaron Urdiales, 8ENF-W-NP, EPA Region 8  
James B. Eisenhauer, WYPDES Inspection Program Coordinator, Sheridan  
Don McKenzie, Water and Wastewater Program Manager  
Bill J. DiRienzo ► Brian K. Lovett ► Leah J. Krafft  
IPS (for scanning) ► NOV Docket 4064-07  
Keith Guile, DEQ Public Information Officer (PDF)

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ADMIN/OUTREACH (307) 777-7937 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 777-5973	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
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BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

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

Wyoming Mountain Resorts, LLC )  
PO Box 86 )  
Ten Sleep, WY 82441 )

DOCKET NUMBER 4064-07

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Wyoming Mountain Resorts, LLC (WMR) is the owner/operator of two (2) facilities located on the western slope of the Big Horn Mountains which are known as Lake Lodge Resort (LLR), formerly Meadowlark, and Deer Haven Lodge (DHL). LLR is located in Section 33, Township 49 North, Range 86 West, Big Horn County and DHL is located in Section 6, Township 48 North, Range 86 West, Washakie County, Wyoming;
2. Wyoming Mountain Resorts, LLC has received numerous Letters of Violation (LOV) concerning violations with regards to WYPDES permits WY0042218 and WY0023400 from 2005 to present. These violations include; failure to submit Discharge Monitoring Reports (DMRs), various effluent parameter exceedances, and unpermitted discharges of wastewater/sewage. These are violations of Part I.A, B, and C of WYPDES permits WY0042218 and WY0023400.
3. Lake Lodge Resort is permitted to discharge wastewater under WYPDES permit WY0042218. The facility recently built a new wastewater treatment plant which incorporates septic tanks, a recirculating sand filter, an ultraviolet disinfection system for treated wastewater, and surface discharge of treated water. The LLR outfall discharges to a swale draining into East Tensleep Creek (Class 2AB water) at a point approximately 2,000 feet upstream of the point at which East Tensleep Creek flows into Meadowlark Lake.
4. On April 5, 2007 the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) conducted an inspection of this facility. During the inspection numerous concerns were noted with regards to septic problems and operations and maintenance problems associated with the wastewater treatment system and its permitted discharge. Inspectors noted signs that overflow from the septic system had occurred and overflow wastewater was collecting in a low spot within the alluvium of East Tensleep Creek. Toiletries and other items were noted in the flow path from the septic overflow. Due to winter conditions the wastewater overflow was frozen (estimated at 3 feet thick) and was not observed flowing into East Tensleep Creek. However, during snow melt and runoff events, the collected wastewater would flow into the creek. Interviews with Lodge employees and inspections of the transport equipment between the septic tank and wastewater treatment plant showed flaws in the operation of the transport pipe from the septic tank to the wastewater treatment facility. Due to inadequate burial depth of the transport pipe below frost line the pipe froze which created the backflow and overtopping of the septic tank. Also discovered was a PVC transport pipe suspended under a bridge that had frozen and broken which caused a direct leak of sewage into East Tensleep Creek. The septic backflow and broken PVC transport pipe caused unauthorized discharges of wastewater and sewage for approximately four months (during winter months) and the discharges entered or threatened to enter East

Tensleep Creek, a class 2AB water of the state. DEQ personnel returned to the site on May 2, 2007 to gather additional information after snow melt had occurred. Photo documentation confirmed the unauthorized discharge of sewage and wastewater directly to the creek.

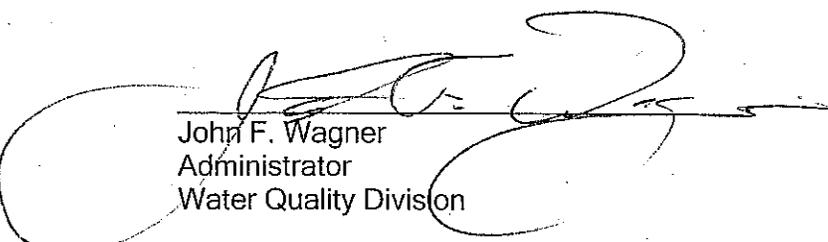
5. The above referenced facility was ordered by the U.S. Forest Service (USFS) to cease all activities under its special use permit on April 9, 2007. USFS reports indicate violations of this kind for the fourth time in three years. USFS Special Use Permit Clause XII. B Sanitation states: *"The operation and maintenance of all sanitation, food service, and water-supply methods, systems, and facilities shall comply with the standards of the State, local health departments and water control agencies."* Due to lack of compliance with this clause the USFS special use permit allowing operation of this facility has been suspended until required compliance standards are met.
6. An oil spill was reported by the USFS on April 27, 2007 at this facility. The spill occurred just west of the sewage discharge. USFS completed some containment and cleanup at the time of discovery. WMR reportedly did some subsequent cleanup removing contaminated soil at the site. Hydrocarbon staining and odor was observed on the bank and traveled downhill towards the creek. Due to snow cover it was not determined if the spill ultimately reached the creek. DEQ policy under the Solid and Hazardous Waste Division would require excavation of the contaminated soil which has not been completed at this time. WRM's failure to report the spill is a violation of Chapter 4, Sec. 4 (a)(ii) of the Wyoming Water Quality Rules and Regulations which states: *"A hazardous substance release in any amount which enters, or threatens to enter, waters of the state shall be reported, contained, removed, and disposed of in accordance with these regulations. Any person owning or having control over oil or a hazardous substance which, after release, enters, or threatens to enter, waters of the state shall: immediately take appropriate action to stop and contain the release."*
7. Deer Haven Lodge (DHL) is permitted to discharge wastewater under WYPDES permit WY0023400. The wastewater treatment system serving the lodge consists of four septic tanks which discharge into a small single cell aerated lagoon followed by chlorination and a siphon discharge system. The discharge enters West Tensleep Creek, a Class 2AB water of the state.
8. On April 5, 2007, the WQD conducted an inspection of this facility. During the inspection numerous concerns were noted with regard to septic problems and operation and maintenance problems associated with the wastewater treatment system and its permitted discharge. Deer Haven Lodge reportedly has had sewer backups in its buildings and the aerator and chlorinator in its sewage lagoon have been out of operation for a long period of time. The facility owner requested an inspection of the facility by Stetson Engineering, Inc. Results indicated the outlet structure overflow had been cut off, the chlorination system was not operable, the aerator was not operating, and the collection system was plugged. Also, to keep the entire system from freezing, water continually runs through the system. Observations of the system verified leaking components (valves) and broken pipes due to lack of maintenance. At the time of the inspection, a bypass pipe on the distribution system was discharging directly to West Tensleep Creek. It should be noted the USFS shut down the lodge to visitors in January 2007 due to frozen pipes causing sewer problems. In conclusion unauthorized discharges of wastewater and sewage produced from DHL's septic system, for approximately four months (during winter months), have entered or threatened to enter West Tensleep Creek, a class 2AB water of the state. DEQ personnel returned to the site on May 2, 2007 to gather additional information after snow melt had occurred. Photo documentation confirmed the unauthorized discharge of sewage and wastewater directly to the creek, the unacceptable condition of the septic system and aerator, and other health related issues.
9. By discharging pollution into waters of the state, WMR is in violation of W.S. 35-11-301 (a)(i) and Chapter 2 of the Wyoming Water Quality Rules and Regulations Sec. 5 (c)(i)(N) which states: *"The permittee must properly operate and maintain all equipment and treatment systems used by the permittee to achieve compliance with the terms of the permit."* Lack of maintenance on components of the treatment system resulted in frozen and broken pipes leading to the unauthorized discharge of sewage and wastewater to waters of the state.

10. 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;
11. 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, 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 31 day of May, 2007.

  
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John V. Corra  
Director  
Department of Environmental Quality

  
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John F. Wagner  
Administrator  
Water Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Kevin M. Wells., WYPDES Compliance & Enforcement Coordinator at the Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4<sup>th</sup> Floor West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

JVC/JFW/KMW/bb/7-0439.NOV

cc: Aaron Urdiales, 8ENF-W-NP, EPA Region 8 (PDF)  
James B. Eisenhauer, WYPDES Inspection Coordinator, Sheridan DEQ Office (PDF)  
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DEQ Director