



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

November 12, 2008

CERTIFIED MAIL

Mr. Dale Ruby
J M Land & Developing Co.
2901 Four J Road
Gillette, WY 82718

RE: Notice of Violation and Order Docket Number 4388-08

Dear Mr. Ruby:

Enclosed is a copy of Notice of Violation and Order issued to the J M Land & Developing Co. for the construction and operation of a public water supply system without a permit which is a violation Wyoming Statute 35-11-301 (a)(v).

ANY APPEALS TO THE ENVIRONMENTAL QUALITY COUNCIL FROM THE ATTACHED ORDER MUST BE MADE IN WRITING WITHIN THE TEN (10) DAY LIMIT PRESCRIBED BY WYOMING STATUTE 35-11-701(c). Chapter 1, Section 3 of the enclosed Department of Environmental Quality Rules of Practice and Procedures set forth the requirements for the initiation of appeal proceedings. You are urged to review all of the provisions of the attached Rules of Practice and Procedures as they relate to this action.

To appeal this Order and request a hearing, you must file two (2) copies of your written petition. The first hearing petition shall be mailed to the Chairman, Wyoming Environmental Quality Council, Room 1714, Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail return receipt requested.

The Department of Environmental Quality and the Environmental Protection Agency are aware of the ongoing water quality and construction issues and will diligently move towards rectifying this problem.

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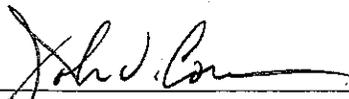
Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

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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Mr. Dale Ruby
J M Land & Developing Co.
NOV and Order Docket No. 4388-08
November 12, 2008

If you have any questions or comments concerning this matter, please contact Mrs. Karen L. Farley, P.E., Northeast District Engineer at (307) 473-3478.



John V. Corra
Director
Department of Environmental Quality



John F. Wagner
Administrator
Water Quality Division

JVC/JFW/LBH/bb/8-0885

Enclosure: Notice of Violation and Order

cc: Chair, Environmental Quality Council
Keith Guille, DEQ Public Information Officer
Lou Harmon, W/WW Program Manager
Kathelene Brainich, EPA Drinking Water Enforcement, 1595 Wynkoop Street, Denver, CO
80202-1129
Phillip Giffin, Campbell County Engineering Services Manager, 500 S. Gillette Avenue,
Suite 1400, Gillette, WY 82716
Bill Sheldon, Ridgeway Community Water Users,
Optigas, 1111 Energy Street, Gillette, WY 82716

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

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

J M Land & Developing Co. and Dale Ruby)
2901 Four J Road)
Gillette, WY 82718)

DOCKET NUMBER 4388-08

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. On September 25, 2007, Phillip Giffin, Campbell County Engineering Services Manager, notified the Water Quality Division (WQD) of a possibly unpermitted public water supply serving Ruby Estates also known as Ridgeway Community Well Association, PWS No. WY5601602 in Campbell County, Wyoming
2. The Ridgeway Road #2 Well Wyoming State Engineers Office (SEO) Permit Number 40/2/281W was registered with SEO by Jesse Dale and Marjorie Ruby for miscellaneous use for 20 residences with a priority date of June 7, 2007.
3. The Environmental Protection Agency Region 8 (EPA) was notified by WQD of the existence of the public water system. A Basic Information Form (BIF) was sent to Dale Ruby to obtain information on the water system. Barb A. McAlpine-Johnson, EPA, supplied the basic water system information to WQD October 23, 2007. The BIF confirmed that the system qualified as a public water system.
4. The SEO performed an inspection on November 8, 2007. During the inspection, three water wells were discovered all within 1,000 yards of a storage tank. It appeared that two of the three wells were in use.
5. WQD personnel, Karen Farley and Lou Harmon, conducted a site visit on May 6, 2008 and observed the water tank and drinking water wells.
6. Wyoming Statute (W.S.) 35-11-301 (a)(v) stipulates that a permit is required for the construction of a public water supply.
7. On August 21, 2008 and August 24, 2008 the water system ran out of water in the storage tank, leading to a loss of pressure in the entire water system. The main well pump failed. The second well was put into operation delivering very poor quality water to the users.
8. On August 27, 2008, the EPA issued an Emergency Administrative Order (Docket No. SDWA-08-2008-0096). The basis for the Emergency Order was the determination that conditions existed at the water system that might present an imminent and substantial endangerment to human health.
9. This NOTICE is being sent to J M Land & Developing Co. and Dale Ruby pursuant to Wyoming Statute 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.
10. Pursuant to Wyoming Statute 35-11-901(a), any person who violates any provision of the Environmental Quality Act (Act), or any order, rule, standard, permit license, or variance adopted there under, 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. 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.

ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL – STATE OF WYOMING

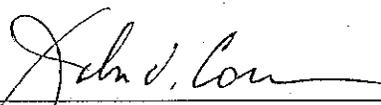
WHEREFORE IT IS HEREBY ORDERED THAT:

1. No later than 90 days from the receipt of this order provide an as-built drawing prepared by a Wyoming Licensed Engineer of the entire water distribution, storage, and treatment system of the public water supply serving Ruby Estates. Please identify which components require repair, modification, or replacement to comply with the standards of Chapter 12, WQD Rules and Regulations (Chapter 12).
2. No later than 90 days from the receipt of this order provide a Chapter 3 WQD Rules and Regulations application for Permit to Construct accompanied by an engineering design report, plans and specification prepared by a Wyoming Licensed Engineer to the standards of Chapter 12. The application shall address the modifications or replacements to the public water supply system necessary to comply with the requirements of the EPA Direct Implementation Program and Chapter 12.
3. No later than 210 days from the receipt of this order complete all necessary construction to comply with all requirements of a permit to construct issued by WQD as a result of the successful completion of the application required in Order Number 2 above.
4. No later than 210 days from the receipt of this order, employ a Wyoming certified operator and backup operator. The operators must be certified and designated as required by Chapter 5, WQD Rules and Regulations.

This ORDER is final unless, no later than ten (10) days after the date this Notice is received, it is appealed by filing a written request for a hearing before the Environmental Quality Council. If a hearing is requested, the first hearing petition shall be mailed to the Chairman, Wyoming Environmental Quality Council, Room 1714, Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail return receipt requested.

NOTHING IN THIS ORDER shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this Order be interpreted as being a condition precedent to any other enforcement action.

Ordered this 18 day of Nov, 2008.



John V. Corra
Director
Department of Environmental Quality



John F. Wagner
Administrator
Water Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Karen L. Farley, P.E., NE District Engineer, Water & Wastewater Section, Wyoming Department of Environmental Quality, 152 N. Durbin, Casper, WY 82601 Telephone 307-473-3478.

JVC/JFW/LBH/bb/8-0885

xc: Chair, Environmental Quality Council
Keith Guille, WQD Public Information Officer
John Gillis, US EPA Region 8, 8P-W-DW, 1595 Wynkoop St., Denver CO 80202-1129
Kathelene Brainich, EPA DW E