



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

September 9, 2009.

Mr. Dan Guerttman
Granite Peak Development, LLC.
PO Box 51568
Casper, Wyoming 82605

RE: Notice of Violation and Order, Docket Number 4550-09

Dear Mr. Guerttman:

Attached is a Notice of Violation and Order, Docket Number **4550-09**, for failing to abide by WYPDES Authorization WYR103013 as required by the WYPDES Storm Water Permit.

ANY APPEALS TO THE ENVIRONMENTAL QUALITY COUNCIL FROM THE ATTACHED ORDER MUST BE MADE IN WRITING WITHIN THE TEN (10) DAY TIME LIMIT PRESCRIBED BY W.S. 35-11-701(c). Chapter I, Section 3 of the Department of Environmental Quality Rules of Practice and Procedure (<http://soswy.state.wy.us/RULES/5675.pdf>) sets forth the requirements for the initiation of appeal proceedings.

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

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

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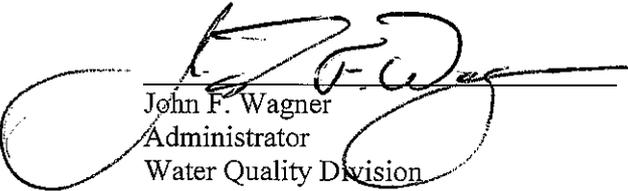
ADMIN/OUTREACH (307) 777-7937 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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Granite Peak Development, LLC.
September 9, 2009
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John V. Corra
Director
Department of Environmental Quality



John F. Wagner
Administrator
Water Quality Division

JVC/JFW//KMW/bb/rm/9-0793

Enclosure: Notice of Violation and Order

cc: Lee Hanley, 8ENF-W-NP, EPA Region 8 (PDF)
Bill DiRienzo ► Kevin M Wells ► Barb Sahl (PDF)
NOV Docket **4550-09**
Environmental Quality Council
Keith Guille, DEQ Public Information Officer (PDF)

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

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

Granite Peak Development, LLC)
PO Box 51568)
Casper, Wyoming 82605)

DOCKET NUMBER 4550-09

NOTICE OF VIOLATION AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Granite Peak Development, LLC (GPD) is the developing company of the Cole Creek Industrial Park construction site located in Natrona County, Wyoming. The construction site has received authorization for storm water discharges associated with new and existing "large construction" activities through the Wyoming Pollution Discharge Elimination System (WYPDES), authorization WYR103013, dated October 20, 2006.
2. The Wyoming Department of Environmental Quality, Water Quality Division (WQD) conducted an inspection of the facility on August 12, 2009. At the time of the inspection the construction site appeared to be inactive. Observations recorded from the inspection include extensive erosion of the diversion channel and sediment being deposited into the North Platte River (Class 2 AB water).
3. Violations noted by the inspector included failure to install erosion and sediment control measures required in a Storm Water Pollution Prevention Plan (SWPPP). Lack of the erosion control practices has resulted in large amounts of sediment being deposited into the North Platte River. **This is a violation of the Large Construction General Storm Water permit. This is also a violation of Water Quality Rules and Regulations Chapter 1, Section 15. *Settleable Solids:* "In all Wyoming surface waters, substances attributable to or influenced by the activities of man that will settle to form sludge, bank or bottom deposits shall not be present in quantities which could result in significant aesthetic degradation, significant degradation of habitat for aquatic life or adversely affect public water supplies, agricultural or industrial water use, plant life or wildlife."**
4. Part 7.4.2. (SWPPP Implementation) of the Large Construction General Storm Water Permit states *"For projects that begin after the effective date of this permit (September 1, 2006), the SWPPP must be implemented immediately and throughout the duration of the construction activity and up until the site is finally stabilized."* Erosion and sediment controls are not being installed and/or maintained. These are violations of the Large Construction General Storm Water Permit.
5. Part 8.4 Visible or measurable erosion, associated with a construction activity, which leaves the construction site as a result of inadequate or ineffective SWPPP design or maintenance of BMPs, is prohibited. *Visible or measurable erosion is defined as: Part 8.4.1 "Deposits of mud, dirt, sediment, or similar material exceeding one cubic foot in any area of 100 square feet or less on public or private roads, adjacent property, or into water of the state by deliberate actions or as a result of water or wind erosion; or Part 8.4.2 evidence of concentrated flows of water over bare soils, turbid or sediment-laden flows, or evidence of on-site erosion on bare*

slopes, where runoff of water is not filtered, treated, or captured on the site using BMPs specified in the SWPPP; or Part 8.4.3 earth slides, mud flows, earth sloughing, or other earth movement which leaves the construction site" are all violations of the Large Construction General Storm Water Permit.

6. **Part 10.1 Duty to Comply.** *The permittee must comply with all conditions of this permit, and is responsible for ensuring any subcontractors; employees or other persons associated with the construction activity comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Chapter 2 of the Wyoming Water Quality Rules and Regulations, The Wyoming Environmental Quality Act, and the Clean Water Act and may be grounds for enforcement action, permit termination, revocations, or modification, or for denial of a permit renewal application."* Failure to comply is a violation of the Large Construction General Storm Water Permit.
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:

ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL – STATE OF WYOMING

WHEREFORE IT IS HEREBY ORDERED THAT:

1. Under the requirements of the Large Construction General Permit Granite Peak Development, LLC, (GPD) must implement and maintain erosion control practices to prevent or reduce the pollution of waters of the state. These requirements must be met until all soil disturbing activities at the site have been completed, and a uniform perennial vegetative cover with a density of seventy percent (70%) of the native background vegetative cover for the area has been established.
2. GPD shall submit a written plan of action to the WQD to include the corrective actions to be taken to stabilize the erosion on the site and stabilization of the diversion channel to minimize sediment being deposited into the North Platte River. This plan of action needs to be submitted within 30 days of the date of this Order.
3. GPD shall immediately address site stabilization (within the site and around the diversion channel) with implementation of BMPs (Best Management Practices) as required in the WYPDES storm water permit until the construction site has been stabilized. This work needs to be completed and documentation provided to the WQD within 45 days of the date of this Order.

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 hearing petition shall be mailed to the Chairman, Wyoming Environmental Quality Council, Room 1714 Herschler Building, 1st Floor West, 122 West 25th St., Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of the Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th St., Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

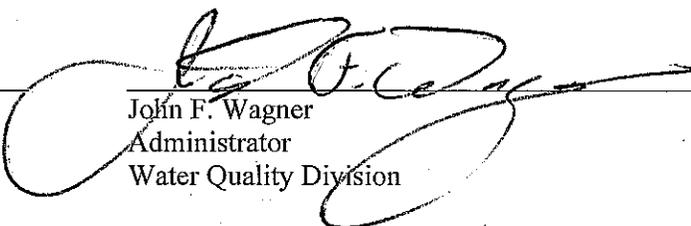
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NOTHING IN THIS NOTICE OF VIOLATION (NOV) AND ORDER shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV AND ORDER be interpreted as being a condition precedent to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

Signed this 18th day of September, 2009.



John V. Corra
Director
Department of Environmental Quality



John F. Wagner
Administrator
Water Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Kevin M. Wells, WYPDES Compliance & Enforcement Program 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/KMW/bb/rm/9-0793

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