



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

November 12, 2009

Mr. Scott McWilliams
Converse County Road & Bridge
107 North 5th Street, Suite 114
Douglas, Wyoming 82633

RE: Notice of Violation and Order, Docket Number 4578-09

Dear Mr. McWilliams:

Attached is a Notice of Violation and Order, Docket Number **4578-09**, for failing to abide by WYPDES Authorization WYR103965 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://sos.wy.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.

THIS SPACE INTENTIONALLY LEFT BLANK

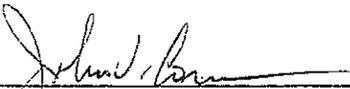
Page L-1

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

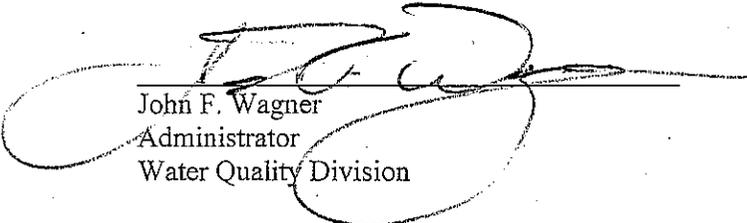
ADMIN/OUTREACH (307) 777-7937 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
--	---	---	---	--	--	---



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.



John V. Corra
Director
Department of Environmental Quality



John F. Wagner
Administrator
Water Quality Division

JVC/JFW/KMW/bb/9-1010

Enclosure: Notice of Violation and Order

cc: Lee Hanley, 8ENF-W-NP, EPA Region 8 (PDF)
Bill DiRienzo ► Kevin M Wells (PDF)
NOV Docket 4578-09
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 ISSUED TO:)
)
Converse County Road & Bridge)
107 North 5th Street, Suite 114)
Douglas, Wyoming 82633)
)
)
)

DOCKET NUMBER 4578-09
Permit # WYR103965

NOTICE OF VIOLATION AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Converse County Road & Bridge (CCRB) is the contractor of a road construction project described as "The Esterbrook Road (CR#5) Reconstruction and Resurfacing (ERRR). The construction site is located in Section 7, Township 29 North, Range 71 West to Section 33, Township 29 North, Range 71 West, Converse County, Wyoming and received WYPDES construction storm water authorization WYR103965 under the Large Construction General Permit (LCGP) on April 30, 2009.
2. On September 30, 2009 the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) conducted an inspection at the ERRR construction site. During the inspection numerous violations of permit conditions were noted to include; no updated Storm Water Pollution Prevention Plan (SWPPP) or site map, ineffective or nonexistent Best Management Practices (BMPs) in disturbed areas adjacent to stream channels allowing for sediment to be deposited in the stream channel of Mill Creek, Fred's Draw, and other ephemeral drainages adjacent to the construction site, no maintenance program regarding inspections and repairs of ineffective BMPs as needed to prevent transport of sediment off site, and no identified responsible person for inspections and maintenance of BMPs.
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 resulted in large amounts of sediment deposited onto adjacent property and ephemeral drainages, and into Mill Creek, a class 2AB water of the state.
4. Following are the sections of the WYPDES Large Construction General Permit (LCGP) that CCRB is in violation of regarding permit requirements:

Part 7.2.4.1.1-Erosion Prevention BMPs-*The goal of erosion prevention is preventing soil (or sediment) movement and keeping it at its original location within the construction site. Lack of BMPs in critical areas is allowing sediment to be deposited into ephemeral drainages and waters of the state.*

Part 7.2.4.1.2-Sedimentation Control-*The goal of sedimentation control is to prevent sediment from leaving the construction site and, more particularly, from entering surface waters of the state or storm drain inlets*

Part 7.2.1 SWPPP Administrator-*Each SWPPP shall identify a specific individual or individuals within the facility organization that are responsible for developing the storm water SWPPP and assisting the facility manager in its implementation, maintenance, and revisions.*

Part 7.2.4.5 Maintenance-*All practices identified in the SWPPP must be maintained in effective operating condition. The plan must indicate, as appropriate, the intervals or conditions upon which BMPs shall be maintained. Maintenance shall also occur whenever periodic inspections indentify BMPs that are not operating effectively. "*

Part 8.4 Visible or measurable erosion-*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.

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."*

5. A large amount of sediment has been deposited into Mill Creek from the construction activities by CCRB. **This is 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.*
6. 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

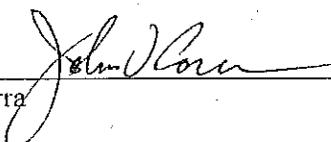
WHEREFORE IT IS HEREBY ORDERED THAT:

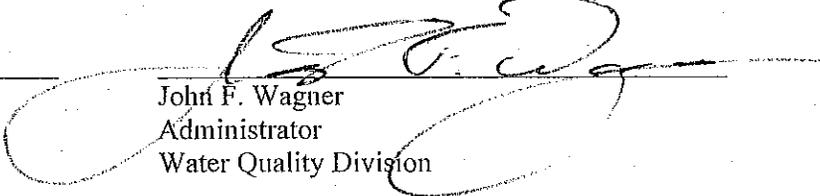
1. Under the requirements of the Large Construction General Permit Converse County Road and Bridge, (CCRB) must implement and maintain erosion control practices to prevent or reduce the pollution of waters of the state. These requirements must be met until all soil disturbing activities at the site have 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. CCRB shall contact the WQD to schedule a meeting in Cheyenne to discuss the Order and proposed plan of action. This meeting shall to be scheduled within 30 days of the date of this Order.
3. CCRB 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 must 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 two written requests 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 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.

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.

Ordered this 12 day of Nov, 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 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/9-1010

- cc: Lee Hanley, 8ENF-W-NP, EPA Region 8 (PDF)
Bill J. DiRienzo ► Kevin M. Wells (PDF)
IPS (for scanning) ► Docket 4578-09
Keith Guille, DEQ Public Information Officer (PDF)
Environmental Quality Council
DEQ Director