



# Department of Environmental Quality

*To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.*



Matthew H. Mead, Governor

Todd Parfitt, Director

**CERTIFIED MAIL**

September 25, 2013

Mr. Jeramie Lage  
Oftedal Construction Inc.  
PO Box 400  
Miles City, MT 53901

**RE: Notice of Violation, Docket Number 5186-13**

Dear Mr. Lage:

Attached is a copy of a Notice of Violation, Docket Number 5186-13, issued to Oftedal Construction, Inc. (Oftedal) for violations noted by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) at the Happy Jack/Curt Gowdy Highway project site, State Project SCP-SL13-0107025. Violations at the site included failure to install effective best management practices (BMPs) to prevent sediment from entering the drainages, failure to stabilize disturbed slopes to prevent sediment from being transported onto vegetated areas or to surface waters of the state, and failure to update the SWPPP and site map, the failure to install and maintain effective best management practices (BMPs) to control storm water runoff, and failure to update the SWPPP with BMP installation locations and current site map.

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. Oftedal should install effective storm water preventative measures throughout the life of the project to ensure no sedimentation enters a water of the state.
2. Oftedal should maintain compliance with all conditions established in the WYPDES storm water general permit for large construction activities.

For questions pertaining to the required information and forms please visit the website at the link provided [http://deq.state.wy.us/wqd/WYPDES\\_Permitting/WYPDES\\_Storm\\_Water/stormwater.asp](http://deq.state.wy.us/wqd/WYPDES_Permitting/WYPDES_Storm_Water/stormwater.asp)

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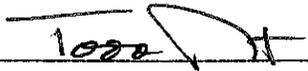
Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH (307) 777-7758 FAX 777-7682	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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**Oftedal Construction Inc.**  
**September 25, 2013**  
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The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by Oftedal. If Oftedal wishes to pursue resolution of the previously noted violations through such an agreement, please contact Mr. Kevin M. Wells, WYPDES Natural Resource Program Supervisor, at (307) 777-8669 within 21 days of the date of this letter to set up a meeting to discuss this matter.



Todd Parfitt  
Director  
Department of Environmental Quality



Kevin Frederick  
Administrator  
Water Quality Division

Enclosure: Notice of Violation

TP/KDF/KMW/bb/13-0916

cc: David Gwisdalla, 8ENF-W-NP, EPA Region 8 (PDF)  
Bill J. DiRienzo ► Kevin M. Wells (PDF)  
IPS (for scanning) ► Docket 5186-13  
Keith Guille, DEQ Public Information Officer (PDF File)  
DEQ Director

**BEFORE THE**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**STATE OF WYOMING**

IN THE MATTER OF THE NOTICE OF  
VIOLATION ISSUED TO:

Oftedal Construction Inc.  
PO Box 400  
Miles City, MT 53901

DOCKET NUMBER 5186-13

**NOTICE OF VIOLATION**

**NOTICE IS HEREBY GIVEN THAT:**

1. On July 16, 2013 the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) inspected the Happy Jack/Curt Gowdy Highway project site (State Project SCP-SL13-0107025) in Laramie County, Wyoming where Oftedal Construction Inc. (Oftedal) is the contractor completing the work under WYPDES authorization WYR104740. Concerns noted during the inspection included the failure to install effective best management practices (BMPs) to prevent sediment from entering the drainages, failure to stabilize disturbed slopes to prevent sediment from being transported onto vegetated areas or to surface waters of the state, and failure to update the SWPPP and site map. These are violations of Chapter 2 of the Wyoming Water Quality Rules and Regulations (WWQRR).
2. Chapter 2, Section 6(f)(i) of the WWQRR concerning large construction activities states the following: ***“Storm water discharge associated with large construction activity means the discharge of storm water from construction activities, including clearing, grading, and excavating, that result in land disturbance of five (5) or more acres of total land area. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a large common plan of development or sale if the larger common plan will ultimately disturb five (5) acres or more.”***
3. Oftedal’s failure to obtain and comply with permit requirements, by not installing and/or maintaining erosion and sediment control measures, etc. resulted in excessive erosion, sediment being deposited into the adjacent drainages and stream beds along the construction site. Permit requirements are stated as follows:

**Part 7.2 Best management practice selection, installation and maintenance. “All BMPS must be properly selected, installed and maintained in accordance with the manufacturer’s specifications and good engineering practices. (It is not required that the SWPPP be prepared or certified by a registered engineer.) If periodic inspections or other information indicates a practice has been used inappropriately or incorrectly the permittee must modify or replace the control”.**

**Part 7.4 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 7.4.1 “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 7.4.2 “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 7.4.3 earth slides, mud flows, earth sloughing, or other earth movement which leaves the construction site"; or Part 7.5 "If any measurable quantity of sediment leaves the construction site because of structural failure of inadequate design of the BMPs, the sediment shall be placed back on site or properly disposed of, as soon is prudent. Under no conditions shall the sediment be washed into municipal storm sewers or surface waters of the state".*

Part 9.7.6 Records. "Documentation of any changes made to the SWPPP and SWPPP site map as a result of the inspection". If new BMPs are installed they need to be displayed on the site map and properly designed and installed as indicated in the SWPPP.

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."

Part 10.5 Duty to provide information. "The permittee shall furnish to the Administrator, within a reasonable time, any information which the Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Administrator, upon request, copies of records required to be kept by this permit."

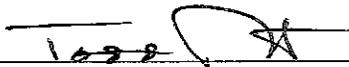
These are all violations of the Large Construction General Storm Water Permit and failure to comply is a violation of Chapter 2 of the Wyoming Water Quality Rules and Regulations (WWQRR) and the Wyoming Environmental Quality Act.

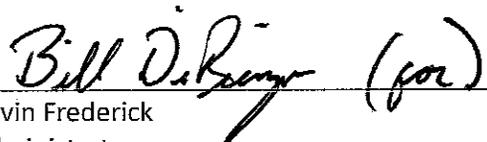
7. Pursuant to Wyoming Statute 35-11-901(a), any person who violates, or any director, officer or agent of a corporate permittee who willingly and knowingly authorizes, orders or carries out the violation of any provision of the Environmental Quality Act (Act), or any rule, regulation, standard or permit 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.

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**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 30th day of September, 2013.

  
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Todd Parfitt  
Director  
Department of Environmental Quality

  
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Kevin Frederick  
Administrator  
Water Quality Division

**PLEASE DIRECT ALL INQUIRIES TO:** Kevin M. Wells WYPDES Natural Resource Program Supervisor, 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.

TP/KDF/KMW/bb/13-0916

cc: David Gwisdalla, 8ENF-W-NP, EPA Region 8 (PDF)  
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