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

June 4, 2014

Mr. Rob Geringer
City of Cheyenne
2101 O'Neil Avenue
Cheyenne, WY 82001

RE: Notice of Violation and Order, Docket Number 5415-14
WYPDES Permit Authorization Number WYR103820-expired

Dear Mr. Geringer:

Attached is a Notice of Violation and Order, Docket Number **5415-14,** for failing to abide by WYPDES Authorization WYR103820 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 Todd Parfitt, 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.

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

ADMIN/OUTREACH	ABANDONED MINES	AIR QUALITY	INDUSTRIAL SITING	LAND QUALITY	SOLID & HAZ. WASTE	WATER QUALITY
(307) 777-7758	(307) 777-6145	(307) 777-7391	(307) 777-7369	(307) 777-7756	(307) 777-7752	(307) 777-7781
FAX 777-7682	FAX 777-6462	FAX 777-5616	FAX 777-5973	FAX 777-5864	FAX 777-5973	FAX 777-5973

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

Todd Parfitt
Director
Department of Environmental Quality

Kevin Frederick
Administrator
Water Quality Division

TP/KDF/KMW/bb/14-0485

Enclosure: Notice of Violation and Order

cc: David Gwisdalla, 8ENF-W-NP, EPA Region 8 (PDF)
Bill DiRienzo ▶ Kevin M. Wells ▶ Barb Sahl (PDF)
NOV Docket 5415-14
Environmental Quality Council
Keith Guille, DEQ Public Information Officer (PDF)
Jennifer Zygmunt, Nonpoint Source Program Coordinator (PDF)

Mayor Richard Kaysen
City of Cheyenne
2101 O'Neil Ave.
Room 310
Cheyenne, WY 82001

BEFORE THE

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:	)	
Mr. Rob Geringer **City of Cheyenne** **2101 O'Neil Avenue** **Cheyenne, WY 82001**	)	**DOCKET NUMBER 5415-14**

NOTICE OF VIOLATION AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. The City of Cheyenne (Cheyenne) was authorized to discharge storm water under a Large Construction General storm water permit (LCGP) WYR103820 during the development and construction associated with the Dry Creek-Sheridan Reach Flood Control project. Cheyenne received authorization through the Wyoming Pollution Discharge Elimination System (WYPDES), authorization WYR103820 on June 23, 2010 from a transfer of the permit from the previous owner, Tarco, Inc.

2. Section 3.11.2 of the LCGP states: Deadline to renew- "All permittees that receive coverage under this automatic process must submit an NOI, or other form as provided by the Administrator, to this office by July 9, 2011 to maintain coverage under this general permit. Operators who fail to do so will have their coverage under this permit terminated. Construction sites that are not "finally stabilized," and where coverage lapses, may be subject to an enforcement action.

3. The LCGP states in Section 5.2: Compliance with the conditions of this permit is required until an NOT has been submitted and accepted by the Department. Failure to comply is a violation of the LCGP requirements. Section 5.3 states, "Failure to submit an NOT shall result in continued accrual of annual permit fees until such time that an NOT is received and accepted by the DEQ."

4. On January 28, 2011 a letter was sent to Cheyenne informing them that the authorization for WYR103820 would expire on March 15, 2011 and a new LCGP would be required along with revisions that may affect actions taken to comply with the permit. To date Cheyenne has not applied for a renewal of the authorization.

5. Cheyenne submitted a Notice of Termination (NOT) requesting to be relieved of the LCGP requirements in January 2012. Upon receipt of the request WQD completed a site visit of the area on January 4, 2012 and determined the requirements of 70% vegetative coverage had not been achieved and the request for termination was denied.

6. The Large Construction General Permit-Storm water states in Section 10.21: Permit Actions: This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by a permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

7. On June 7, 2013 the WDEQ/WQD Nonpoint Source Program Coordinator visited the site for an evaluation of the project. During the visit several deficiencies relating to water quality were noted in the project area. Concerns noted included: (1) failure to maintain Best Management

Practices (BMPs) to control erosion resulting in large areas of deposited sediment and developing headcuts along the banks of the retention basins and other parts of the drainage system. WDEQ recommended that corrective action take place to mitigate adverse impacts to water quality that were occurring due to lack of BMP maintenance and promote long-term stability of the system. These deficiencies were in direct correlation to lack of site stabilization and BMP maintenance which are LCGP requirements. A copy of this report was provided to Cheyenne with the recommendations outlined on page 8.

8. The Wyoming Department of Environmental Quality, Water Quality Division (WQD) conducted an inspection of the facility on April 11, 2014. Violations from this inspection included the following: (1) operating without a renewed permit, (2) failure to maintain Best Management Practices (BMPs) to control erosion and transport of pollutants, and (3) failure to meet the 70% coverage requirement to allow for termination of the permit. ***Currently the site is not stabilized and the storm water discharge authorization from the previous permit has expired. Therefore, any storm water discharging from the site is unauthorized and in violation of the Wyoming Environmental Quality Act and is grounds for enforcement action.***

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. Within 45 days of the mailing of this NOV and Order Cheyenne shall address site stabilization with implementation and/or upgrading BMPs (Best Management Practices) as required in the corrective actions outlined in Part III of DEQ's inspection report and maintain the site to achieve stabilization with 70% vegetation coverage and the potential for a discharge of storm water and other pollutants has been eliminated.

2. Within 14 days of receipt of this NOV and Order Cheyenne shall complete and submit the required Notice of Intent (NOI) and fees for a new LCGP permit.

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.

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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.

Ordered this 9th day of June, 2014.

Todd Parfitt
Director
Department of Environmental Quality

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, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

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