

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

OCT 15 2008

In the Matter of the Appeal)
of NOV & Order 4331-08)
Issued to KDA Construction, Inc.)

Docket No. 08-3807

Jim Ruby, Executive Secretary
Environmental Quality Council

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S RESPONSE
TO KDA CONSTRUCTION, INC.'S PETITION

Respondent Wyoming Department of Environmental Quality (DEQ), through counsel, pursuant to the Wyoming Environmental Quality Council's (EQC) Order dated and filed September 16, 2008, answers Petitioner KDA Construction, Inc.'s (KDA) September 3, 2008 "request to appeal" (Petition) as follows:

1. DEQ admits that it issued Notice of Violation (NOV) and Order No. 4331-08 to KDA under cover letter dated August 14, 2008 addressed to Mr. Mark Tobiasson.

2. DEQ admits that the NOV names KDA as the contractor for a large construction site in Sweetwater County that received authorization WYR103444 for storm water discharges associated with that project.

3. DEQ admits that authorization WYR103444 was issued to KDA for the Bluff Senior Estates in Sweetwater County, based on the Notice of Intent (NOI) signed and submitted by KDA dated 6-15-07 (copies attached).

4. DEQ does not have knowledge or information sufficient to form a belief as to the truth of, and therefore denies, KDA's averment that the Bluff Senior Estates project has been abandoned due to lack of financing and no work has been performed since January 31, 2008. DEQ admits that although the NOI

submitted by KDA represented construction was planned to end November 30, 2007, the NOV alleges that at the time of a DEQ inspection on May 20, 2008, the construction site appeared to be inactive.

5. DEQ does not have knowledge or information sufficient to form a belief as to the truth of, and therefore denies, KDA's averment that the Bluff Senior Estates project has been canceled and there are no plans to continue to build the project at this time.

6. DEQ denies that KDA is not responsible for compliance with Storm Water Discharge Authorization WYR103444, which was issued to KDA based on the NOI signed and submitted by KDA.

7. DEQ admits that the NOV and Order were sent to the mailing address listed in the NOI submitted by KDA. DEQ denies that KDA subsequently notified DEQ of an address change prior to KDA's Petition appealing the NOV and Order. DEQ does not have knowledge or information sufficient to form a belief as to the truth of, and therefore denies, KDA's averment that it did not receive the NOV until September 3, 2008.

8. DEQ denies any other averments in KDA's Petition.

DATED this 15 day of October, 2008.



Mike Barrash (Bar No. 5-2310)
Senior Assistant Attorney General
123 State Capitol Building
Cheyenne, Wyoming 82002
307-777-6946

CERTIFICATE OF SERVICE

This certifies that true and correct copies of the foregoing WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S RESPONSE TO KDA CONSTRUCTION, INC.'S PETITION was served this 15 day of October, 2008 by United States mail, first class postage prepaid, and also by facsimile transmission, addressed as follows:

Brad Hankins
KDA Construction, Inc.
3950 Fairview Industrial Dr., SE
Suite, 210
Salem, Oregon 97302
FAX: 503-587-8766

A handwritten signature in black ink, appearing to read "B Hankins", is written over a horizontal line.



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

Authorization to Discharge Storm Water Associated Large Construction Activities Under the National Pollutant Discharge Elimination System

In compliance with the provisions of Chapter 2 of the Wyoming Water Quality Rules and Regulations, the Wyoming Environmental Quality Act and the federal Water Pollution Control Act,

KDA Construction Inc.

The Bluff Senior Estates

NE Section 27, Township 19 North, Range 105 West, Sweetwater County

and located within the State of Wyoming which has or may discharge storm water associated with Construction Activities, is hereby authorized to discharge to the surface waters of the State of Wyoming in accordance with the requirements of this permit which was issued September 1, 2006.

Coverage under the general permit expires March 15, 2011.

This facility has been assigned permit authorization number **WYR103444**

Authorization under this general permit is effective beginning November 20, 2006.

The permittee listed above is subject to a statutorily-required annual \$100 fee (W.S. §35-11-312) for as long as this authorization is active or until the general permit expires. See Part 5 of the general permit for information regarding termination of coverage.

Discharges from dewatering of collected storm water and minor amounts of ground water from excavations and depressions are permitted provided that requirements specified in Part 8.8 are followed and the necessary BMPs are installed and effective. Discharges that consist of process or wastewaters or more than minor amounts of ground water must be covered under a separate WYPDES permit specifically for those discharges.

Attached is a copy of the general permit. If you have any questions regarding the conditions of your permit, contact Barb Sahl at (307) 777-7570 or John Gorman at (307) 777-5622.

Authorized Signature
Department of Environmental Quality/Water Quality Division

Mailing Address:
KDA Construction Inc.
Mark Tobiasson
3723 Fairview Industrial Drive SE, Suite 196
Salem, OR 97302



NOTICE OF INTENT

TO REQUEST
DISCHARGE AUTHORIZATION
FOR STORM WATER FROM
LARGE CONSTRUCTION ACTIVITIES
(Under Large Construction General Permit WYR10-0000)

WYR 100444



Official Use Only
Date received:
RECEIVED
JUN 16 2007

- ✓ Please print or type.
 - ✓ All items must be completed accurately and in their entirety or the NOI will be deemed incomplete and processing will be delayed.
 - ✓ Storm water discharges from a large construction project are covered under the large construction general permit when the Administrator provides a letter of authorization (LOA) to the applicant (see Part 1.2.5 of the permit).
- Authorizations issued under the general permit are subject to an annual \$100 permit fee for as long as the authorization is active or until the general permit expires. The annual billing cycle is based on the state's fiscal year from July 1 to June 30. There is no need to pay the fee with the application. Permit fees are invoiced after June 30th. See Part 5 of the general permit for information regarding when and how to terminate coverage.
- An original signature of the applicant is required. Faxes cannot be accepted.

1. General Information:

Name of project operator - This is the company, organization or individual that has day-to-day supervision and control of activities occurring at the construction site and which will be the permittee:

~~Site Works, Inc.~~ **KDA CONST. INC.**

Contact person responsible for permit compliance:	Position title:		
Mark Tobiasson			
Mailing address:	City:	State:	ZIP:
3723 Fairview Industrial Dr. SE, Suite 196	Salem	OR	97302
Telephone number:	Fax number:		
(503) 587-8700 503-931-6953	(503) 485-1054		

2. Project Information:

Project Name:

The Bluff Senior Estates

Name, legal description, and county of the project for which this notice is being filed (for linear projects give location at each end of the construction area): **Yellowstone Road Industrial Park, Lot 28 and 29, Sweetwater County**

Note that a project location using section, township, and range OR a street address is required.

Quarter/quarter:	Section(s):	Township:	Range:	County:
NE	27	19N	105W	Sweetwater

If this is a linear project add ending location. If more space is needed attach additional sheet(s):

Quarter/quarter:	Section	Township	Range:	County:

Street Address (if applicable):

Latitude and longitude to the nearest 15 seconds (if available):
If this is a WYDOT project, list project number(s):

3. Project Description:

Briefly describe the project: The project will consist of constructing a new residential site. The site is approximately 14.47 acres in size. The site will consist of water, sanitary sewer, storm sewer, curb, gutter sidewalk and asphalt streets.	
The surface area that will be disturbed during construction in acres: 14.47 acres	
Date construction is planned to start: June 20, 2007	Date construction is planned to end: November 30, 2007

4. Receiving Waters and Municipal Storm Sewers:

Name(s) of the nearest defined drainage(s) which could receive runoff from the construction project, whether it contains water or not. Include bodies of water such as lakes and wetlands where applicable. The nearest defined drainage is the Killpecker Creek, located approximately 1/2 miles northeast of the construction site. A storm pipe will be used to convey most of the water to the Killpecker Creek. The remainder will flow down an existing borrow ditch within the WYDOT R.O.W. The WYDOT R.O.W flows into the Killpecker Creek.
Will storm water discharge from the project enter a municipal storm sewer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If so, what municipality? Rock Springs
To what water body does the storm sewer discharge? Killpecker Creek

5. SWPPP Certification:

Has a "Storm Water Pollution Prevention Plan," following the requirements presented Part 7 of the Large Construction General Permit (WYR10-0000), been prepared for the construction project? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If "No," when will it be developed?

Note that a SWPPP *must be developed prior to beginning* any land disturbing activity at the permitted site.

Submit SWPPP with NOI for projects that will disturb 100 or more acres.

6. Attachments:

For all projects: Attach a site map that shows the boundaries of expected land clearing. Indicate storm water drainage patterns on the map or include a topographic map that includes the locations of nearby drainages, water bodies, and/or municipal storm sewers.

Alternative inspection plans only. Operators seeking approval for alternative inspection schedules at the beginning of their project must submit the project SWPPP and proposed inspection plan with their NOI. Approval for an alternative plan may be requested later (see Part 9.1.4 in the permit).

Projects that will disturb 100 or more acres only. A SWPPP must be submitted with the NOI for any project that is expected to result in 100 or more acres of disturbance (see Part 3.6 in the permit).

7. Certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. In addition, I certify that I am aware of the terms and conditions of the large construction general permit and I agree to comply with those requirements.

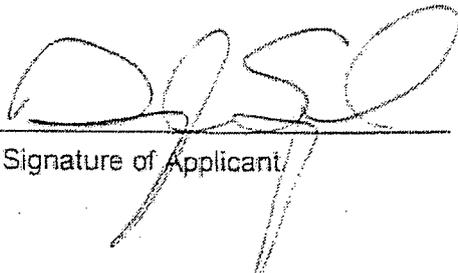
Authorized signatories for this notice of intent are the following:	
For corporations:	A principal executive officer of at least the level of vice president, or the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the overall operation of the facility from which the discharge originates.
For partnerships:	A general partner.
For a sole proprietorship:	The proprietor.
For a municipal, state, federal or other public facility:	Either a principal executive officer or ranking elected official.

DOUGLAS SPROUL

CEO

Printed Name of Person Signing

Title



6.15.07

563-587-8700

Signature of Applicant

Date

Telephone