

FILED

NOV 28 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

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

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)
)
Dale Ruby and JM Land & Developing)
Company, 2901 Four J Road, Gillette,)
Wyoming 82718)
)

Docket No. 4388-08

EQC-08-3601

NOTICE OF APPEAL AND REQUEST FOR HEARING

Dale Ruby and JM Land & Developing Company, Respondents, by and through their undersigned counsel, do hereby give notice of their appeal from that certain Notice of Violation and Order dated the 18th day of November, 2008, received on or about November 21, 2008, and they further do request a hearing before the Environmental Quality Council.

As grounds for this appeal and request for hearing, the Permittee respectfully shows the Council as follows:

1. The Respondents deny that the water wells and storage tank and pipeline system constitutes a "public water supply" or "public water system".
2. The Respondents are complying with the requirements of the Wyoming State Engineer's office.
3. The Respondents are in compliance with all Campbell County regulations and requirements.
4. The Respondents are in compliance with all EPA regulations.
5. The Environmental Protection Agency has been deeply involved with the Respondents and the Respondents have made many changes in the water system to comply with EPA directives.
6. The EPA has pre-empted regulation of the Respondents' water system by the DEQ.

7. The requirements stated in the November 18 Order are unnecessary, arbitrary, capricious, beyond the statutory authority of DEQ and unreasonable.

WHEREFORE, Dale Ruby and JM Land & Developing Company request a hearing on the Notice of Violation and Order, and ask that the Environmental Quality Council set aside the Notice of Violation and Order.

Respectfully submitted



Randall T. Cox
400 South Kendrick St., Suite 101
Gillette, WY 82716
307-682-2500
307-685-0527 FAX

CERTIFICATE OF SERVICE

I, Randall T. Cox, hereby certify that on the 26th day of November, 2008, I did cause a true and correct copy of the foregoing to be deposited in the U.S. Mail, postage prepaid, addressed to each of the following:

Mike Barrash, Esq.
Attorney General's Office
123 Capitol Bldg.
Cheyenne, WY 82002

John V. Corra, Director
Department of Environmental Quality
122 West 25th St., Herschler Bldg. 4th Flr. W.
Cheyenne, WY 82002

Chairman of Environmental Quality Council
Rm. 1714, Herschler Building, 1st Flr. W.
122 West 25th Street
Cheyenne, WY 82002



Randall T. Cox
Attorney for Plaintiff
400 South Kendrick, Suite 101
Gillette, Wyoming 82716
(307) 682-2500