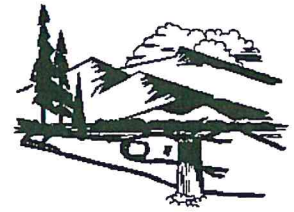




Department of Environmental Quality

Filed: 8/18/2017 10:49:14 AM WEQC

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

July 17, 2017

Poverty Hill North, LLC (Lava Mountain Lodge)
Mr. James Jackson
PO Box 658
Dubois, WY 82513

RE: Notice of Violation and Order, Docket Number 5728-17

Dear Mr. Jackson:

Attached is a Notice of Violation and Order, Docket Number 5728-17, for injections into a cesspool for Poverty Hill North, LLC, Lava Mountain Lodge located in Fremont County, Wyoming.

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 (https://sites.google.com/a/wyo.gov/wyomingeqc/rules) 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 shall be mailed to Mr. Todd Parfitt, Director, Wyoming Department of Environmental Quality, 200 West 17th Street, 4th Floor, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested

PLEASE DIRECT ALL INQUIRIES TO: Ms. Lily Lee, Groundwater Section Manager at the Department of Environmental Quality, Water Quality Division, 200 West 17th Street, 2nd Floor, Cheyenne, Wyoming 82002. Telephone (307) 777-7072.

[Signature of Todd Parfitt]

Todd Parfitt
Director
Department of Environmental Quality

[Signature of Kevin Frederick]

Kevin Frederick
Administrator
Water Quality Division

Enclosure: Notice of Violation and Order, Docket # 5728-17

Poverty Hill North, LLC (Lava Mountain Lodge)
July 17, 2017
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cc: Wendy Cheung, EPA Region 8 (PDF)
Tiffany Cantor, EPA Region 8 (PDF)
Connie Osborne for Director, WDEQ (Hard Copy)
Kevin Frederick, WDEQ – WQD (PDF)
Lily Lee, WDEQ – WQD (PDF)
Kathy Shreve, WDEQ – WQD (PDF)
NOV Docket **5728-17** (File Copy)
Chairman, Fremont County Commissioners, 450 North 2nd Street, Room 205, Lander WY 82520

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

**IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)**

**Mr. James Jackson)
Poverty Hill North, LLC)
PO Box 658)
Dubois, WY 82513)**

DOCKET NUMBER 5728-17

NOTICE OF VIOLATION AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Lava Mountain Lodge (LML), owned by Poverty Hill North, LLC (PHN) operates two (2) septic systems and leachfield located between Dubois and Grand Teton National Park, in Fremont County, Wyoming. Domestic wastewater from a guest lodge, general store, gas station and restaurant inject into the two (2) septic systems. Currently, the septic systems and leachfields at Lava Mountain Lodge are not covered under an Underground Injection Control (UIC) Program Permit
2. PHC was issued coverage under the Class V UIC General Permit (5C6-5E5) for the existing septic system on February 15, 2017.
3. On September 21, 2016, Mr. Derek Lichtner, Wyoming Department of Environmental Quality (WDEQ) UIC Inspector completed an inspection of LML. During the inspection, Mr. James Jackson (owner) informed Mr. Lichtner that the domestic wastes from the facilities identified as “the tan house” and the “old cabin” were being directly discharged into a cinder block-lined pit. According to Wyoming Water Quality Rules and Regulations, Chapter 27, this type of disposal facility is classified as a cesspool. Cesspools were prohibited in April, 1998.
4. PHC is in violation as follows:
 - i. Injection of wastewater into a cesspool, banned in 1998. Wyoming Water Quality Rules and Regulations, Chapter 27, Section 20(d)(ix), which states “No person shall construct and/or operate any cesspool after April 14, 1998. No Class V facility which receives domestic sewage shall be constructed and/or operated after April 14, 1998 unless the waste is first treated in a septic tank, or other pre-treatment device.” The Notification of Coverage Letter sent on February 15, 2017 referenced

that the 5E2 untreated domestic sewage disposal system (cesspool) must be abandoned.

5. 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 DEQ shall cause a written notice to be issued and served on the person alleged to be responsible.
6. Pursuant to W.S. § 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.

ORDER


WHEREFORE IT IS HEREBY ORDERED THAT:

1. PHN will immediately cease injections into the cesspool(s).
2. PHN shall abandon the cesspool(s) in accordance with WQRR, Chapter 27. A plan shall be developed and submitted to WDEQ within forty-five (45) days of the date of this Order. The plan shall include, but is not limited to, the following:
 - i. A plan and schedule for plugging and abandoning the cesspool(s) in accordance with WQRR, Chapter 27 Section 18.
 - ii. A provision for notifying the UIC Program thirty (30) days prior to cesspool abandonment.
 - iii. Abandonment of the cesspool must be completed by October 31, 2017.
3. PHN shall submit a modified permit application incorporating any modifications to the existing system necessary to account for the abandonment of the cesspool. The modified permit application should be submitted within thirty (30) days of cesspool abandonment. PHN will need to submit the modified permit application for an individual permit at that time.
4. All plans, schedules, reports, methodologies, and approaches are subject to UIC Program approval.


This ORDER is final unless, not later than ten (10) days after the date of this notice is received it is appealed by filing a written petition for a hearing before the Environmental Quality Council. If a hearing is requested, the petition shall be mailed to: Chairman, Wyoming Environmental Quality Council, Room 1714 Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming, 82002. The second petition shall be mailed to: Director, Wyoming Department of Environmental Quality, 200 West 17th Street, 4th Floor, Cheyenne, Wyoming 82002. Both petitions must be sent via 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 24th day of July, 2017.



Todd Parfitt
Director
Department of Environmental Quality



Kevin Frederick
Administrator
Water Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Ms. Lily Lee, Groundwater Section Manager, Wyoming Department of Environmental Quality, Water Quality Division, 200 West 17th Street, 2nd Floor, Cheyenne, Wyoming 82002. Telephone 307-777-7072.

TP/KF/KS/sg/17-0305